



Forest Health Strategy Work Group Report to the Legislature

December 2006



WASHINGTON STATE DEPARTMENT OF
Natural Resources
Doug Sutherland - Commissioner of Public Lands

Acknowledgements

Forest Health Strategy Work Group

Report to the Legislature

This report was prepared by the Forest Health Strategy Work Group.

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<http://www.dnr.wa.gov/htdocs/rp/forhealth/fhswgc/index.html>

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December 28, 2006

The Honorable Ken Jacobsen, Chair
Senate Natural Resources, Oceans and Recreation Committee
P.O. Box 40446
Olympia WA 98504-0407

The Honorable Brian Sullivan, Chair
House Agriculture and Natural Resources Committee
P.O. Box 40600
Olympia WA 98504-0407

**SUBJECT: REPORT TO THE LEGISLATURE
ENGROSSED SENATE BILL 5179**

Dear Senator Jacobsen and Representative Sullivan,

I am pleased to send you, on behalf of the Forest Health Strategy Work Group (FHSWG), the report prepared pursuant to Section 1 of ESB5179.

As the Report indicates, in August 2006 the Work Group held eight meetings across the state. The Report contains a summary of what the Work Group heard during those meetings, and the recommendations that resulted from its deliberations. The Report also contains the Work Group's recommendations regarding legislation, and the Decision Package related to forest health the Department of Natural Resources (DNR) sent to the governor as part of the Department's 2007-2009 budget request.

During the FHSWG meetings, which were designed to get public reaction to the Work Group's proposed legislation, forest landowners throughout the state repeatedly expressed concern about the real financial hardships that would result from a proposal that did not contain financial incentives to help landowners implement costly forest health practices, such as thinning and slash disposal. The FHWG previously recognized this issue in 2004, and recommends to the legislature the need for an accompanying budget for technical assistance, development and dissemination of public and technical information, demonstration projects, and forest health improvement cost share.

DNR responded to landowner attendees at the meetings, reminding them that legislation does not normally contain an appropriation, but the Department was submitting a budget request for the beginnings of a forest health program keyed to the Work Group's recommendations as part of the 2007-09 Biennial Budget. DNR was not able to discuss the budget proposal in detail since it had not yet been submitted to the Office of Financial Management.

The Work Group also asks the Legislature to consider the recommendations in Appendix 7 of the 2004 Report (copies attached). Note that the Work Group agrees with the public comments received during the meetings in that sufficient funding must be made available to both DNR's Forest Stewardship Program and Washington State University (WSU) Extension to assist in landowner and public education and landowner technical assistance. Family forest owners depend on educational programs conducted by WSU Extension for accurate forest health information. They rely on DNR Stewardship Foresters to give them site-specific advice and also to administer federal cost-share programs (when they are available) which help landowners pay for forest health improvement and wildfire hazard reductions projects.

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DNR has requested funding for restoring state funding of Stewardship Forester positions as part of its 07-09 Small Forest Landowners Office budget request. WSU Extension has lost several forestry positions in recent years and the few they currently have are largely funded by "soft money". DNR's technical assistance and WSU's educational programs are complementary. In geographic areas without Extension Foresters, the overall effectiveness of forest health assistance to landowners is seriously compromised.

The Work Group also acknowledges that without markets for small wood, or government underwriting of thinning costs, little work can actually be accomplished economically. The 2004 report details both market issues and the economic benefits to the public from investments in thinning and fuel treatments. Moreover, the development moratorium associated with Forest Practices permits may limit landowner willingness to conduct forest health improving activities.

Ultimately, the forest health issues in Washington must be addressed by the owners and managers of the land. Federal and state agencies must accept the responsibility and have public support to maintain the forests under their jurisdiction. Private commercial interests must have a regulatory climate that supports good stewardship. Family forest owners must be supported by a well-coordinated and adequately funded program of outreach and education, on-site technical assistance, and financial incentives.

The Work Group is currently set to "sunset" on June 30, 2007. One of its assigned tasks is to recommend "whether the Work Group should be extended beyond the time that the required report has been submitted" (ESSB 5179: Sec 1 (3) (i)). The Work Group has discharged its duties including reporting to the legislature, holding public meetings, and preparing draft legislation. DNR has made a commitment to maintain contact with Work Group members and stakeholders regarding forest health issues and events. It is therefore recommended that the Forest Health Strategy Work Group be allowed to cease at the described date, pending future needs.

We trust you will find the Work Group's recommendations useful as you consider how to best deal with the forest health crisis that exists in Washington's forests.

Sincerely,

A handwritten signature in cursive script, appearing to read "Doug Sutherland".

Doug Sutherland
Commissioner of Public Lands

C: Vicki Christiansen, DNR Executive Director, Regulatory Programs
Forest Health Strategy Work Group Members
Michael Grayum, DNR Government Relations Director

Forest Health Strategy
Work Group
Report to the Legislature

December 2006



WASHINGTON STATE DEPARTMENT OF
Natural Resources
Doua Sutherland - Commissioner of Public Lands

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Introduction and Background

In 2004, the Legislature passed legislation directing the formation of a Work Group to study forest health issues and report its findings and recommendations to the Legislature. That work was completed, and the report was sent to the Legislature. Included was a recommendation that the Work Group be extended for the purpose of holding a series of public meetings across the state. These meetings were for the purpose of informing the public, landowners, and public officials of the current state of forest health in Washington and to gather their thoughts on legislation proposed by the Work Group in its report.

The Legislature took no action on this subject in the 2005 session. In the 2006 session, the Legislature enacted ESB 5179. The legislation directed that the Work Group be reconvened, and directed that at least five public meetings be held across the state to take public comment on the draft bill proposed by the Work Group.

The Work Group reconvened in July of 2006 to organize the effort for the public meetings. They decided to hold a total of eight meetings, four in eastern Washington and four on the west side of the state. Nearly all the members of the Work Group attended at least one of the public meetings, and several attended nearly all. All the meetings were held in August. In addition, the Department provided the opportunity for comments to be mailed both physically and electronically.

In October, the Work Group reassembled to consider the comments received at the public meetings and via mail. This led to a number of changes to the proposed draft legislation. In addition, the Work Group felt that due to the mixed opinions that were heard, it would be best to provide the Legislature with options.

Between October and the final meeting of the Work Group in December 2006, Department staff worked with the material provided by the public comment and as directed by the Work Group to prepare this report and make the recommended changes to the draft legislation.

Public Meetings

The Work Group decided to hold eight meetings across the state, one in each of the “four corners” of eastern Washington: Omak, Yakima, Colville and Walla Walla. On the westside, meetings were held in Longview, Aberdeen, Mt. Vernon and SeaTac. A total of 137 individuals signed in at the meetings, although about twice that number actually attended. The number in attendance ranged from about 10 to over 50. Some meetings were held in late afternoon while others were in the evening in an attempt to accommodate a variety of schedules.

The meetings were announced by a statewide press release giving the time, date, and location of all eight meetings. In addition, the Department used all its contact lists related to forests and forestry to notify individuals and organizations of the meetings. Lastly, just days before the meeting in a community local press were contacted and display ads were placed in the local newspapers where the meetings were held. In addition, meeting locations were featured prominently on the agency’s website.

The meeting format was standardized. At the beginning of each meeting, Karen Ripley, Department Entomologist, presented an overview of forest health conditions in the state, customized to discuss the particular issue of concern in the immediate area. A brief history of the proposed legislation and the Work Group and its products was employed to provide context for discussion. This was followed by an opportunity for attendees to address the Work Group on their thoughts and concerns regarding forest health generally and the draft legislation in particular. The meetings were not conducted in the traditional public hearing style. There was often interaction between Work Group members and those presenting their thoughts. The purpose was to better understand the points, and point of view of those presenting, and also to provide additional information to the public.

What We Heard

Appendix 1 is a listing of the comments we received, and where we heard the comments. We noted when a comment was made, but not the number of times the comment was made. It is noteworthy, though, that some comments were made in only one or two places, while some comments were general, heard where ever we went. We received about a dozen written and emailed comments. Virtually all of them were variations of a single form letter.

There were four major themes noted in nearly all the meetings and others that were less frequently mentioned or more regional in context that the Work Group felt needed to be addressed.

The major themes are:

- 1. There is considerable misunderstanding of what the proposed legislation is intended to achieve and how it would work,** and a lot of fear that the program would focus on individuals instead of regions of the state where forest health conditions are a concern.
- 2. There is considerable apprehension on the part of landowners and the public on how public lands, both state and federal, are managed.** We heard over and over again that “what’s good for the goose must be good for the gander”. But the theme went well beyond the concept of equity of treatment of public and private lands. There is general understanding that a substantial part, if not a majority, of the forest health decline is on public lands.
- 3. There is considerable disagreement over whether a forest health program for Washington forest lands should have a regulatory element.** When pressed, many of those who originally argued against a regulatory mechanism, agreed on the need to induce reluctant forest landowners, public or private, to take action when their failure to act would affect the health of their neighbors’ forests. We received no suggestions on alternative regulatory approaches.
- 4. There is widespread agreement that forest health is both a public and private concern and that the overall approach to forest health should be through**

technical and financial assistance. The latter issue is of particular concern due to the loss of markets in certain regions.

The other themes we heard from the public are:

- 5. The definition of “forest health” in the current law is not comprehensive enough.** It does not address issues such as biological diversity, diversity of tree species and age classes and so on.
- 6. The general lack of coordination between regulatory programs puts forest health at risk, and limits options for forest landowners.** This is particularly true of the interaction of forest health, Forest Practice Rules, Endangered Species Act and the Smoke Management plan.
- 7. The public expressed some concern regarding the composition of the Forest Health Technical Advisory Committee** referenced in Tiers 2 and 3 of the draft legislation. There were mixed opinions about what the make up should be.
- 8. There was a mix of recommendations regarding appropriate sanctions for failing to act should a Tier 3 “Order” be issued,** ranging from actual cost of doing the work plus 10%, to cost plus 25%, to removing the land from “forest” designation to highest and best use, and allow for tax increase. There was no agreement on this issue. Many expressed their thoughts and comments as: “have you thought about...”

Work Group Responses and Recommendations

1. While the existing draft legislation would clearly apply to non-federal, non-tribal public land, we believe it wise to be very specific that the provisions of the act apply to state land.
2. The Work Group believes that the fundamental approach taken in the draft legislation is sound. Based on public input, we will prepare for the Legislature’s consideration two draft bills, one with “Tier 3” – a regulatory component; (Appendix 2) the other draft will include all the same, but without “Tier 3” (Appendix 3). The Work Group recommends the Tier 3 regulatory element, but hopes and expects that the regulatory element would only rarely ever be necessary. The Work Group’s continued emphasis is on achieving the desired outcome in Tiers 1 and 2, particularly through focused technical assistance and cost-sharing work when possible.
3. Currently, the extreme fire hazard law provides that if the Department of Natural Resources has to take action to eliminate, reduce or mitigate an extreme hazard on the property of another, the Department may charge twice the actual costs. This is mostly to encourage landowners to do the work, or arrange for it to be done, themselves. The Work Group believes this approach is appropriate for failure to carry out directives issued in an Order. The purpose is not to penalize, but to motivate the landowner to take actions themselves. The Work Group also believes this is a more appropriate sanction than complex taxation approaches, and it mirrors current law.

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4. While it is clear to the Work Group that the definition of Forest Health in current law is very clearly labeled as being for the purposes of the forest health act only, it might alleviate concerns to clearly state in the draft legislation that the definition is for the purposes of this act only, and is not trying to define “forest health” in an abstract sense.
 5. The Work Group feels the draft legislation appropriately requests the Forest Practices Board evaluate their rules in the context of providing for forest health. We also believe prescribed fire should be promoted as a valuable tool for achieving forest health. However, smoke management actions must be coordinated among agencies to address issues related to prescribed burning and human health. After discussion with Department of Natural Resources and Department of Ecology, it appears that some of the issues related to limitations on silvicultural burning and burning for forest health purposes may be resolved through administrative means. We urge DNR, DOE, and the Legislature to continue to make progress on this important issue.
 6. Of all the recommendations the Work Group received about membership on the Forest Health Technical Advisory Committee, we believe that the addition of a scientist chosen for expertise in forest ecology would add the greatest value to the Committee.
 7. The Work Group believes the Forest Health Technical Advisory Committee should be able to reach consensus on its recommendations without taking a vote, so the final draft legislation will remove the voting provisions present in the original draft.
 8. The Work Group supports the Department of Natural Resources’ 2007-9 Decision Package related to Forest Health as a beginning. However, the Work Group also refers the Legislature to the full suite of implementation recommendations, in Appendix 4 through 7 of the December 2004 Report, a copy of which is attached. [<http://www.dnr.wa.gov/htdocs/rp/forhealth/fhswgc/index.html>] We urge the Legislature to consider investing in forest health to preserve the non-market values of wildlife, clean water, clean air, biodiversity and aesthetics, as well as to reduce future firefighting costs, and protect public and private timber values.
 9. The Work Group feels that the Legislature and Forest Practices Board should evaluate and reduce the potential unintended consequences of the development moratorium associated with forest practices permits. Landowners may be less willing to conduct forest health improvement activities due to incurring a development restriction.

APPENDICES

- Appendix 1 Public Comments, Listed by Location
- Appendix 2 Proposed Legislation – Option 1: A 3-Tier System
- Appendix 3 Proposed Legislation – Option 2: A 2-Tier System
- Appendix 4 Forest Health Decision Package
Submitted by DNR to the Governor with 2007-2009 Budget Request
- Appendix 5 Actions Taken on Recommendations in 2004 Report to the Legislature
- Appendix 6 Forest Health Condition Update, 2006



Appendix 1

Public Comments, Listed by Location

APPENDIX 1
Public Comments received by the Forest Health Strategies Work Group
Summer 2006

Attendance at public meetings / correspondence received	Written	Longview	Aberdeen	Mt. Vernon	Seatac	Yakima	Walla	Colville	Omak
Note: Attendance is solely based on the number of people who signed-in	13	8	10	14	13	31	9	20	32
Glossary of Acronyms Used									
BMP: Best Management Practices									
CLE:									
CWPP: Community Wildfire Protection Plan									
DNR: Department of Natural Resources									
ESA: Endangered Species Act									
FHSWG: Forest Health Strategy Work Group									
FPA: Forest Practices Act or Forest Practices Application									
FREP: Forest Riparian Easement Program									
FSC: Forest Stewardship Council									
HFRA: Healthy Forest Restoration Act									
NF: National Forest									
NFP: National Fire Plan									
RMZ: Riparian Management Zone									
SFLO: Small Forest Land Owner									
Summary of comments received	Written	Longview	Aberdeen	Mt. Vernon	Seatac	Yakima	Walla	Colville	Omak
Land Management and Forest Health									
Management constraints exist for state and federal government			x						x
State should lead by example regarding forest health									x
Management of checkerboard ownership and fragmentation creates forest health issues and fire risks				x	x				x
Public lands are not managed well, in bad shape, can't tell others what to do unless public land well managed		x		x		x		x	x
Lack of grazing on State Land leads to dead grass just waiting to burn / grazing link with Forest Health					x	x			
Private landowner is more aggressive in management than public manager		x	x	x				x	x
Landowners need means to pay for healthy forests / money not available (for public or private use)		x	x	x				x	
Use incentives to improve forest health									
Spotted owl habitat in danger of being lost due to fire, and forest health / other habitat		x			x	x			x
Linkages between timber management and forest health, roads mentioned					x				
Losing merchantable timber due to poor forest health						x			x
Balanced approach of forest health and timber health									
Management is the first line of defense, manage for biodiversity and native species mentioned	x			x					x

APPENDIX 1
Public Comments received by the Forest Health Strategies Work Group
Summer 2006

Summary of comments received	Written	Longview	Aberdeen	Mt. Vernon	Seatac	Yakima	Walla	Colville	Omak
Forest Health connection with other laws / programs									
Forest Health should be considered in forest practice regulations									
Modify FPA, modify forest practices significant constraint to healthy forests stewardship on SFLO lands	x			x		x			x
Modify Class I FPA to accommodate low impact forest health / Firewise entries - look at when issued				x		x			
Unhealthy forest class FPA should be created before the disturbance occurs and it should include RMZ forests						x			
Streamline and simplify process for SFLO to obtain FPA						x			
Link value of land with Forest Practices requirements, work with Assessor to value based on use						x			
Should use FREP to get towards natural conditions			x						
Should consider riparian areas in order to deal with Forest Health, Unhealthy RMZ should trump function			x			x			
The moratorium rule is significant impediment to SFLO and should be eliminated by this legislation				x		x			
Consider conflict between BMPs, Forest & Fish, ESA and riparian areas and impacts to forest health				x		x			x
Consider the conflict that "no touch areas" may cause during a declared hazard						x			
Allow foresters to utilize all appropriate management techniques to reduce fuels and improve forest health				x		x			x
Consider how hunting practices / permit impact forest health									
Forest health in relation to the Farm Bill - funding				x					
Need to remove existing constraints to manage lands for forest health, prescribed burns mentioned						x			x
Comparison with current law - specific to enforcement penalties									
State should be active collaborator in National forest health issues participate in plan development (before draft)							x		x
Needs to connect NFP and HFRA						x		x	
Legislation needs to direct counties to complete CWPPs with incentives for high risk communities						x			x
CWPP leads to possible grant money, restoration treatments, healthy forests, lower suppression costs						x			
Acquisition and grant programs should require Forest Stewardship Plan				x		x			
Cost share programs are geared toward large land owners			x						
Consider relationship between the Legislation and Forest Stewardship Education Program				x					

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Summary of comments received	Written	Longview	Aberdeen	Mt. Vernon	Seatac	Yakima	Walla	Colville	Omak
Legislation - General									
Include a definition of Forest Health, many things to many people, working definition									
Clarify the Scale of the proposal- does it apply to an area or individual? What's the impact to SFLO / landowner	x	x	x		x	x		x	x
Clarify "liability"								x	
Clarify "productivity"- timber, habitat, structure									
Consider animal damage as forest health issue - specifically bears			x	x					
Consider role of climate change on forest health				x				x	x
The root causes of forest health not identified, evaluated, addressed in the proposal	x				x				
Legislation should be proactive not reactive and address the problem									
Proposal is too passive to be able to react to current situation	x	x	x	x					
Proposal needs to address Forest Health Problem, Changes to existing law will not fix the "problem"		x	x						
Should be fair, include all landowners, include cities and counties too				x		x		x	x
Proposal will significantly impact SFLO, 80% are doing right thing, how will you get others to pay?			x						x
Consider different rules for east and west sides / consider regional, unique differences, variation of forest types			x		x			x	x
Include education, technical assistance, and cost share programs		x	x						x
If punitive approach, state needs to be more aggressive with NF planning						x			x
Land owner should not be subject to punitive action if completed management plan for forest health certification						x			
Land owner should not get assistance if they refuse to do prescriptive work									
Role of markets and subsidies / capacity to process for blue and small wood, need outlet for material									
Consider use of BMPs rather than generic voluntary approach									
Proposal needs support of forest service / public managers						x			x
Bundle proposal to reach broader interests - fire districts, grants,									
Proposal should seek maximum ecological function and benefit of forests	x								
Proposal should strive towards long term ecological health of forests not short term threats to stands		x				x			
Should emphasize cooperative approach, not threaten									
Need independent panel to work with FHSWG, forest ecologist, biologist, climatologist, aquatic scientist									
Technical Advisory Committee is not needed, could be biased	x							x	
Add Forest Engineer to Technical Advisory Committee		x							
Working Group should not disband, still much work to do									
Don't need this law, don't tell us what to do	x								
Some parts of proposal may degrade private property rights									
Legislation is too regulatory and too punitive									
Support for legislation that encourages healthy forests									
Proposal seems like an empty threat		x							

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Public Comments received by the Forest Health Strategies Work Group
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Summary of comments received	Written	Longview	Aberdeen	Mt. Vernon	Seatac	Yakima	Walla	Colville	Omak
Legislation - Pre-ambble									
Include statement of how we got here, "not a problem of bugs, disease, fire, but the trees themselves"						x			
Reference that legislation will be consistent with other programs (NFP, HFRA, CWPP, etc)						x			
Acknowledge FPA rules can be modified to accommodate unhealthy forest restoration	x					x			
Legislation - Section 2									
Should first be directed to "create healthy forests", dealing with disturbances should be secondary						x			
Section 2 should be strengthened						x			
Include role of markets - It is the primary driver to restore unhealthy forests, needs to be supply to attract investments						x	x		x
Should provide incentives to convert wood fiber to useful products, fuel or biofuels						x			
State should be a major contributor of supply to strengthen markets						x			x
Legislation - Tiers, Section 3									
Consider how the Tiers will help the landowner, rather than threaten									
Clarify the process under Tier 3 and mixed ownership, state's role			x						x
Tier 1 - ok			x						x
Tier 1 Could equal affirmative defense, if it's not recognized as a problem then no liability for landowner		x				x			x
Tier 2 - ok		x				x			
Remove Tier 2									x
Tier 3 - Not ok / significant concerns		x				x			x
Tier 2 and Tier 3 are threatening									
Sec 3 paragraph 2b - suggests the development of BMPs, clarify statement to support use of BMPs			x						
Delete entire section									
Concern over how Tiers would apply to all ownerships (especially re: liability)		x				x			
Tiers need funding in order to work		x				x			
Give exceptions for management philosophies, possible conflict with FSC certification mentioned		x							x

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Summary of comments received	Written	Longview	Aberdeen	Mt. Vernon	SeaTac	Yakima	Walla	Colville	Omak
Legislation Section 4									
Entire section is bad						x			
Not realistic for Commissioner of Public Land to issue health hazard warning or order to federal government						x			
Most industrial land is intensively managed thus has low possibility of a warning or hazard						x			
Not fair to SFLO when most problem on federal and state land.						x			x
SFLO / landowner would be hammered by this legislation, may be a disincentive for SFLO to stay in forestry						x		x	x
Should set a course for intensive inventory of private (unhealthy) forests and target with education						x			
Legislation Section 6									
Clarify section								x	
Fire Issues									
Should use caution when reallocating liability for fires									
Concerns about fire risk resulting from recreation, Landowners should not be liable for fires started by recreation				x					
Increase liability for fires will drive people out of forestry			x			x			
Management of adjacent lands, fragmentation, creates fire threat									x
Air Quality Issues									
There are limitations on burning due to air quality regulations, and problems getting permission to burn						x			x
Wood stove users should use the wood that's lying around						x			
Direct link between current forest management practices and air quality						x			x
Consider air quality in process of maintaining forest health						x			x

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Public Comments received by the Forest Health Strategies Work Group
Summer 2006

Summary of comments received	Written	Longview	Aberdeen	Mt. Vernon	Seatac	Yakima	Walla	Colville	Omak
General interests expressed									
The difference between management of private vs. public lands			X						X
Forest Health info, historic data, where problems exist, baseline data, what has changed in 200 years			X		X	X	X	X	X
The relationship between DNR and fire suppression, financial element			X				X		
How the legislation is developed (interest in process, public role)			X		X				
Forest Health results in more than just fire, has many impacts			X		X		X	X	
Forest health strategy should be combined with a fire strategy					X				
Need more science / research on forest health issues - root rot specifically mentioned			X	X	X			X	
DNR is the most appropriate agency to lead forest health work						X			
DNR's role in the CWPP - Hwy 410 and 12 corridor project specifically mentioned		X				X			
Forest Health important issue / we're all in it together				X		X			
Forest Health conditions in specific locations (Yakama Reservation, Mt. Adams mentioned)						X			
Requests for information regarding 2006 fires							X	X	X
Interest in Cost Benefit analysis - regarding ownership - nature of impacts								X	
Communicating science is a challenge - owners who don't manage for forestry				X					
Education (Karen's presentation) should be available to wide audience - Judges, CLE credits				X					
State should fund Stewardship P Program					X				
State needs better methods to inform the public					X				
General interest in biodiversity / native species					X				

Appendix 2

Proposed Legislation — Option 1: A 3-Tier System (Z-0348.2/07)

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0348.2/07 2nd draft

ATTY/TYPIST: AI:ads

BRIEF DESCRIPTION: Expanding provisions affecting forest health by creating a three tier technical assistance and regulatory system.

AN ACT Relating to forest health; amending RCW 76.06.140, 76.06.020, 76.06.030, 76.06.040, 76.09.220, 76.09.060, 76.04.005, and 76.04.660; adding new sections to chapter 76.06 RCW; adding a new section to chapter 76.09 RCW; and repealing RCW 76.06.050, 76.06.060, 76.06.070, 76.06.080, 76.06.090, and 76.06.110.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 76.06.140 and 2004 c 218 s 1 are each amended to read as follows:

~~((1))~~ The legislature finds ~~((that))~~ as follows:

(1) Washington faces serious forest health problems where forests are overcrowded or trees are infested with or susceptible to insects, diseases, wind, ice storms, and fire. The causes of and contributions to these susceptible conditions include fire suppression, past timber harvesting and silvicultural practices, altered species composition, and the amplified risks that occur when the urban interface penetrates forest land.

(2) ~~((The legislature further finds that))~~ There is a private and public interest in preventing and controlling uncharacteristic outbreaks of native and naturalized insects and diseases, and reducing

the risk of uncharacteristic loss due to ice storms, wind storms, and wildfire. The public interest is in protecting forest productivity on forests managed for commodity production; forest ecosystem vitality; reducing the cost of fire suppression and the resulting public expenditures; protecting, restoring, and enhancing fish and wildlife habitat, including the habitat of threatened or endangered species; and protecting drinking water supplies and water quality.

(3) Well managed forests are the first line of defense in preventing destructive fires and outbreaks of native insects and diseases. Active management of forests, consistent with landowner objectives and the protection of public resources, is the most economical and effective way to address forest health concerns. Native insects and diseases play important ecological roles when their occurrence does not present a material threat to forest productivity and increase the likelihood of destructive fire.

(4) Forest health problems may exist on forest land regardless of ownership, and the state should ((~~explore all possible avenues for working in~~)) pursue collaboration with the federal government to address common health deficiencies.

~~((3) The legislature further finds that healthy forests benefit not only the economic interests that rely on forest products but also provide environmental benefits, such as improved water quality and habitat for fish and wildlife.))~~

Sec. 2. RCW 76.06.020 and 2003 c 314 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agent" means the recognized legal representative, representatives, agent, or agents for any owner.

(2) "Commissioner" means the commissioner of public lands.

(3) "Department" means the department of natural resources.

~~((3) "Owner" means and includes persons or their agents.~~

~~(4) "Timber land" means any land on which there is a sufficient number of trees, standing or down, to constitute, in the judgment of the department, a forest insect or forest disease breeding ground of a nature to constitute a menace, injurious and dangerous to permanent forest growth in the district under consideration.~~

~~(5) "Commissioner" means the commissioner of public lands.~~

~~—(6))~~ (4) "Disturbance agent" means those forces that damage or kill significant numbers of forest trees, such as insects, diseases, other pests, wind storms, ice storms, and fires.

(5) "Exotic" means not native to forest lands in Washington state.

~~((7) "Forest land" means any land on which there are sufficient numbers and distribution of trees and associated species to, in the judgment of the department, contribute to the spread of forest insect or forest disease outbreaks that could be injurious to forest health.~~

~~—(8))~~ (6) "Forest health" means, for the purposes of this chapter, the condition of a forest being sound in ecological function, sustainable, resilient, and resistant to insects, diseases, fire, and other disturbance, and having the capacity to meet landowner objectives.

~~((9))~~ (7) "Forest health emergency" means the introduction of, or an outbreak of, an exotic forest insect or disease that poses an imminent danger of damage to the environment by threatening the survivability of native tree species.

~~((10))~~ (8) "Forest insect or disease" means a living stage of an insect, other invertebrate animal, or disease-causing organism or agent that can directly or indirectly injure or cause disease or damage in trees, or parts of trees, or in processed or manufactured wood, or other products of trees.

~~((11))~~ (9) "Forest land" means any land on which there are sufficient numbers and distribution of trees and associated species to, in the judgment of the department, contribute to the spread of forest insect or forest disease outbreaks that could be injurious to forest health.

(10) "Integrated pest management" means a strategy that uses various combinations of pest control methods, including biological, cultural, and chemical methods, in a compatible manner to achieve satisfactory control and ensure favorable economic and environmental consequences.

~~((12))~~ (11) "Native" means having populated Washington's forested lands prior to European settlement.

~~((13))~~ (12) "Outbreak" means a rapidly expanding population of insects or diseases with potential to spread.

(13) "Owner" means and includes persons or their agents.

(14) "Person" means any individual, partnership, private, public, or municipal corporation, county, federal, state, or local

governmental agency, tribes, or association of individuals of whatever nature.

(15) "Timber land" means any land on which there is a sufficient number of trees, standing or down, to constitute, in the judgment of the department, a forest insect or forest disease breeding ground of a nature to constitute a menace, injurious and dangerous to permanent forest growth in the district under consideration.

Sec. 3. RCW 76.06.030 and 1988 c 128 s 16 are each amended to read as follows:

(1) This chapter shall be administered by the department.

(2) The department has the lead role in developing a comprehensive forest health program to achieve the goals of this act. Within available funding, the department shall:

(a) Develop, gather, and disseminate information on forest health conditions, monitor forest health conditions and changes over time, and coordinate and enter agreements with interested and affected parties;

(b) Coordinate with universities, university extension services, federal and state agencies, private, public, and tribal forest landowners, consulting foresters, and forest managers to monitor forest fuel buildup, forest insect and disease outbreaks, and wind and ice storm events; and

(c) Coordinate with universities, university extension services, and state and federal agencies to provide education and technical assistance to private, public, and tribal forest landowners on silvicultural and forest management science, techniques, and technology to maintain forests in conditions that are resistant to disturbance agents.

(3) The department may implement a committee to advise on subjects and procedures for monitoring forest health conditions and program activities.

(4) The department may coordinate, support, and assist in establishing cooperative forest health projects to control and contain outbreaks of insects or diseases. Priority for assistance authorized under this section shall be given to areas under forest health hazard warnings and areas where forest health decline has resulted in increased risk to public safety from destructive wildfire.

(5) The state and its officers and employees are not liable for

damages to a person or their property to the extent that liability is asserted to arise from providing or failing to provide assistance under this act.

Sec. 4. RCW 76.06.040 and 1951 c 233 s 4 are each amended to read as follows:

~~((Every owner of timber lands, or his agent, shall make every reasonable effort to control, destroy and eradicate such forest insect pests and forest tree diseases which threaten the existence of any stand of timber or provide for the same to be done on timber lands owned by him or under his control. In the event he fails, neglects, or is unable to accomplish such control, the action may be performed as provided for in this chapter.))~~ Landowners and managers are encouraged to maintain their forest lands in a healthy condition in order to meet their individual ownership objectives, protect public resources as defined in chapter 76.09 RCW, and avoid contributing to forest insect or disease outbreaks or increasing the risk of destructive fire.

NEW SECTION. **Sec. 5.** A new section is added to chapter 76.06 RCW to read as follows:

Forest health issues shall be addressed by a tiered system.

(1) The first tier is intended to maintain forest health and protect forests from disturbance agents through the voluntary efforts of landowners. Tier 1 is the desired status. Consistent with landowner objectives and the protection of public resources, forests should be managed in ways that create, restore, or maintain healthy forest ecosystems so that disturbance agents occur or exist at nonepidemic levels. To the extent of available funding, information and technical assistance will be made available to forest landowners so they can plan for and implement necessary forest health maintenance and restoration activities.

(2) The second tier is intended to manage the development of threats to forest health, or contain or suppress existing threats to forest health, due to disturbance agents. Actions by landowners to address such threats to forest health are voluntary except as required under chapter 76.04 RCW to reduce the danger of the spread of fire. Actions suggested to reduce threats to forest health are specified in forest health hazard warnings issued by the commissioner of public

lands under section 7 of this act. Within available funding, site-specific information, technical assistance, and project coordination services shall be offered as determined appropriate by the department.

(3) The third tier is intended to address significant threats to forest health due to disturbance agents that have spread to multiple forest ownerships or increased forest fuel that is likely to further the spread of fire. Actions required to reduce significant threats to forest health are specified in forest health hazard orders issued by the commissioner of public lands under section 7(5) of this act. Within available funding, site-specific information, technical assistance, and project coordination services shall be offered as determined appropriate by the department. Landowners who are provided notice of a forest health hazard order under section 7(5) of this act and fail to take the action required under such order may be subject to increased liability for the spread of fire as described in RCW 76.04.495 and 76.04.660.

NEW SECTION. **Sec. 6.** A new section is added to chapter 76.06 RCW to read as follows:

(1) The commissioner of public lands may appoint a forest health technical advisory committee when the commissioner determines that forest lands in any area of the state appear to be threatened by a forest health condition of such a nature, extent, or timing that action to reduce the threat may be necessary.

(a) The committee shall consist of one scientist chosen for expertise in forest ecology, two scientists chosen for expertise relative to the attendant risk, one specialist in wildfire protection, one specialist in fuels management, one forester with extensive silvicultural experience in the affected forest type, and a chairperson who shall represent the commissioner. The departments of fish and wildlife, ecology, and natural resources shall provide technical assistance to the committee in the areas of fish and wildlife, water quality, and forest practices, but shall not be members of the committee. The director of forest health protection of region 6 of the United States department of agriculture forest service or their named designee shall be invited to be an ex officio member of the committee. In the event the area affected contains substantial acreage of tribal or federally owned lands, representatives of the affected agencies and tribes shall be invited to participate in the

proceedings of the committee.

(b) The commissioner may disband the committee when he or she deems appropriate.

(2) The committee shall evaluate the threat to forest health and make a timely report to the commissioner on its nature, extent, and location.

(a) In its deliberations, the committee shall consider the need for action to reduce the threat and alternative methods of achieving the desired results, including the environmental risks associated with the alternatives.

(b) The committee shall also recommend potential approaches to achieve the desired results for forest land ownerships of fewer than ten acres and for forests owned for scientific, study, recreational, or other uses not compatible with active management.

(c) The committee shall recommend to the commissioner whether a forest health hazard warning or forest health hazard order is warranted.

(d) When the commissioner issues a forest health hazard warning or forest health hazard order, the committee shall monitor the progress and results of activities to control or mitigate the hazard, and periodically report its findings to the commissioner.

(3) The exercise by forest health technical advisory committee members of their authority under this section shall not imply or create any liability on their part. Advisory committee members shall be compensated as provided in RCW 43.03.250 and shall receive reimbursement for travel expenses as provided by RCW 43.03.050 and 43.03.060. Costs associated with the committee may be paid from the general fund appropriation made available to the department of natural resources for fire suppression.

NEW SECTION. **Sec. 7.** A new section is added to chapter 76.06 RCW to read as follows:

(1) Prior to issuing a forest health hazard warning or forest health hazard order, the commissioner shall consider the findings and recommendations of the forest health technical advisory committee and shall consult with county government officials, forest landowners and forest land managers, consulting foresters, and other interested parties to gather information on the threat, opportunities or constraints on control mechanisms, and other information they may

provide. The commissioner, or a designee, shall conduct a public hearing in a county within the geographical area being considered.

(2) The commissioner of public lands may issue a forest health hazard warning when he or she deems such action is necessary to manage the development of a threat to forest health or contain or suppress an existing threat to forest health. A decision to issue a forest health hazard warning may be based on existing forest stand conditions and:

(a) The presence of insects, disease, or other pests that are likely to (i) spread to multiple forest ownerships and, if not controlled or contained, cause extensive damage to forests; or (ii) increase forest fuel that is likely to further the spread of fire;

(b) When, due to physical damage from wind or ice storm or other cause, there is the likelihood of (i) insect populations building up to damaging levels; or (ii) increasing forest fuel that is likely to further the spread of fire; or

(c) When otherwise determined by the commissioner to be appropriate.

(3) The commissioner of public lands may issue a forest health hazard order when he or she deems such action is necessary to address a significant threat to forest health. A decision to issue a forest health hazard order may be based on existing forest stand conditions and:

(a) The presence of insects, disease, or other pests that have (i) spread to multiple forest ownerships and have caused and are likely to continue to cause extensive damage to forests; or (ii) increased forest fuel that is likely to further the spread of fire;

(b) When, due to extensive physical damage from wind or ice storm or other cause, there is likelihood of (i) insect populations causing extensive damage to forests; or (ii) increasing forest fuel that is likely to further the spread of fire;

(c) Insufficient landowner action under a forest health hazard warning; or

(d) When otherwise determined by the commissioner to be appropriate.

(4) A forest health hazard warning or forest health hazard order shall be issued by use of a commissioner's order. General notice of the commissioner's order shall be published in a newspaper of general circulation in each county within the area covered by the order and on the department's web site. The order shall specify the boundaries of

the area affected, including federal and tribal lands, the forest stand conditions that would make a parcel subject to the provisions of the order, and the actions landowners or land managers should take to reduce the hazard.

(5) Written notice of a forest health hazard warning or forest health hazard order shall be provided to forest landowners of specifically affected property.

(a) The notice shall set forth:

(i) The reasons for the action;

(ii) The boundaries of the area affected, including federal and tribal lands;

(iii) Suggested actions that should be taken by the forest landowner under a forest health hazard warning or the actions that must be taken by a forest landowner under a forest health hazard order;

(iv) The time within which such actions should or must be taken;

(v) How to obtain information or technical assistance on forest health conditions and treatment options;

(vi) The right to request mitigation under subsection (6) of this section and appeal under subsection (7) of this section;

(vii) These requirements are advisory only for federal and tribal lands.

(b) The notice shall be served by personal service or by mail to the latest recorded real property owner, as shown by the records of the county recording officer as defined in RCW 65.08.060. Service by mail is effective on the date of mailing. Proof of service shall be by affidavit or declaration under penalty of perjury.

(6) Forest landowners who have been issued a forest health hazard order under subsection (5) of this section may apply to the department for the remission or mitigation of such order. The application shall be made to the department within fifteen days after notice of the order has been served. Upon receipt of the application, the department may remit or mitigate the order upon whatever terms the department in its discretion deems proper, provided the department deems the remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department may ascertain the facts regarding all such applications in such reasonable manner and under such rule as it deems proper.

(7) Forest landowners who have been issued a forest health hazard

order under subsection (5) of this section may appeal the order to the forest practices appeals board.

(a) The appeal shall be filed within thirty days after notice of the order has been served, unless application for mitigation has been made to the department. When such an application for mitigation is made, such appeal shall be filed within thirty days after notice of the disposition of the application for mitigation has been served.

(b) The appeal must set forth:

(i) The name and mailing address of the appellant;

(ii) The name and mailing address of the appellant's attorney, if any;

(iii) A duplicate copy of the forest health hazard order;

(iv) A separate and concise statement of each error alleged to have been committed;

(v) A concise statement of facts upon which the appellant relies to sustain the statement of error; and

(vi) A statement of the relief requested.

(8) A forest health hazard order issued under subsection (5) of this section is effective thirty days after date of service unless application for remission or mitigation is made or an appeal is filed.

When an application for remission or mitigation is made, the order is effective thirty days after notice setting forth the disposition of the application is served unless an appeal is filed from such disposition. Whenever an appeal of the order is filed, the order shall become effective only upon completion of all administrative and judicial review proceedings and the issuance of a final decision confirming the order in whole or in part.

(9) Upon written request, the department may certify as adequate a forest health management plan developed by a forest landowner, before or in response to a forest health hazard warning or forest health hazard order, if the plan is likely to achieve the desired result and the terms of the plan are being diligently followed by the forest landowner. The certification of adequacy shall be determined by the department in its sole discretion, and be provided to the requestor in writing.

Sec. 8. RCW 76.09.220 and 2003 c 393 s 20 are each amended to read as follows:

(1) The appeals board shall operate on either a part-time or a

full-time basis, as determined by the governor. If it is determined that the appeals board shall operate on a full-time basis, each member shall receive an annual salary to be determined by the governor. If it is determined that the appeals board shall operate on a part-time basis, each member shall be compensated in accordance with RCW 43.03.250. The director of the environmental hearings office shall make the determination, required under RCW 43.03.250, as to what statutorily prescribed duties, in addition to attendance at a hearing or meeting of the board, shall merit compensation. This compensation shall not exceed ten thousand dollars in a fiscal year. Each member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with the provisions of RCW 43.03.050 and 43.03.060.

(2) The appeals board shall as soon as practicable after the initial appointment of the members thereof, meet and elect from among its members a chair, and shall at least biennially thereafter meet and elect or reelect a chair.

(3) The principal office of the appeals board shall be at the state capital, but it may sit or hold hearings at any other place in the state. A majority of the appeals board shall constitute a quorum for making orders or decisions, adopting rules necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position on the board be vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board.

The appeals board shall perform all the powers and duties granted to it in this chapter or as otherwise provided by law.

(4) The appeals board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members and upon being filed at the appeals board's principal office, and shall be open to public inspection at all reasonable times.

(5) The appeals board shall either publish at its expense or make arrangements with a publishing firm for the publication of those of its findings and decisions which are of general public interest, in such form as to assure reasonable distribution thereof.

(6) The appeals board shall maintain at its principal office a journal which shall contain all official actions of the appeals board, with the exception of findings and decisions, together with the vote

of each member on such actions. The journal shall be available for public inspection at the principal office of the appeals board at all reasonable times.

(7) The forest practices appeals board shall have exclusive jurisdiction to hear appeals arising from an action or determination by the department, and the department of fish and wildlife, and the department of ecology with respect to management plans provided for under RCW 76.09.350.

(8)(a) Any person aggrieved by the approval or disapproval of an application to conduct a forest practice or the approval or disapproval of any landscape plan or permit or watershed analysis may, except as otherwise provided in chapter 43.21L RCW, seek review from the appeals board by filing a request for the same within thirty days of the approval or disapproval. Concurrently with the filing of any request for review with the board as provided in this section, the requestor shall file a copy of his or her request with the department and the attorney general. The attorney general may intervene to protect the public interest and ensure that the provisions of this chapter are complied with.

(b) The review proceedings authorized in (a) of this subsection are subject to the provisions of chapter 34.05 RCW pertaining to procedures in adjudicative proceedings.

(9) The forest practices appeals board shall have exclusive jurisdiction to hear appeals of forest health hazard orders issued by the commissioner under section 7(5) of this act. Such proceedings are subject to the provisions of chapter 34.05 RCW pertaining to procedures in adjudicative proceedings.

NEW SECTION. **Sec. 9.** A new section is added to chapter 76.06 RCW to read as follows:

Nothing in this act shall exempt actions specified under the authority of this act from the application of the provisions of chapter 76.09 RCW and rules adopted thereunder which govern forest practices.

NEW SECTION. **Sec. 10.** A new section is added to chapter 76.06 RCW to read as follows:

If any part of this chapter or requirements imposed upon landowners pursuant to this chapter are found to conflict with

requirements of other statutes or rules, the conflicting part of this chapter or requirements imposed pursuant to this chapter shall be inoperative solely to the extent of the conflict. The finding or determination shall not affect the operation of the remainder of this chapter or such requirements.

Sec. 11. RCW 76.09.060 and 2005 c 274 s 357 are each amended to read as follows:

~~((The following shall apply to those forest practices administered and enforced by the department and for which the board shall promulgate regulations as provided in this chapter:))~~

(1) The department shall prescribe the form and contents of the notification and application. The forest practices rules shall specify by whom and under what conditions the notification and application shall be signed or otherwise certified as acceptable. Activities conducted by the department or a contractor under the direction of the department under the provisions of RCW 76.04.660, shall be exempt from the landowner signature requirement on any forest practice application required to be filed. The application or notification shall be delivered in person to the department, sent by first class mail to the department or electronically filed in a form defined by the department. The form for electronic filing shall be readily convertible to a paper copy, which shall be available to the public pursuant to chapter 42.56 RCW. The information required may include, but is not limited to:

(a) Name and address of the forest landowner, timber owner, and operator;

(b) Description of the proposed forest practice or practices to be conducted;

(c) Legal description and tax parcel identification numbers of the land on which the forest practices are to be conducted;

(d) Planimetric and topographic maps showing location and size of all lakes and streams and other public waters in and immediately adjacent to the operating area and showing all existing and proposed roads and major tractor roads;

(e) Description of the silvicultural, harvesting, or other forest practice methods to be used, including the type of equipment to be used and materials to be applied;

(f) Proposed plan for reforestation and for any revegetation

necessary to reduce erosion potential from roadsides and yarding roads, as required by the forest practices rules;

(g) Soil, geological, and hydrological data with respect to forest practices;

(h) The expected dates of commencement and completion of all forest practices specified in the application;

(i) Provisions for continuing maintenance of roads and other construction or other measures necessary to afford protection to public resources;

(j) An affirmation that the statements contained in the notification or application are true; and

(k) All necessary application or notification fees.

(2) Long range plans may be submitted to the department for review and consultation.

(3) The application for a forest practice or the notification of a Class II forest practice is subject to the three-year reforestation requirement.

(a) If the application states that any such land will be or is intended to be so converted:

(i) The reforestation requirements of this chapter and of the forest practices rules shall not apply if the land is in fact so converted unless applicable alternatives or limitations are provided in forest practices rules issued under RCW 76.09.070 as now or hereafter amended;

(ii) Completion of such forest practice operations shall be deemed conversion of the lands to another use for purposes of chapters 84.33 and 84.34 RCW unless the conversion is to a use permitted under a current use tax agreement permitted under chapter 84.34 RCW;

(iii) The forest practices described in the application are subject to applicable county, city, town, and regional governmental authority permitted under RCW 76.09.240 as now or hereafter amended as well as the forest practices rules.

(b) Except as provided elsewhere in this section, if the application or notification does not state that any land covered by the application or notification will be or is intended to be so converted:

(i) For six years after the date of the application the county, city, town, and regional governmental entities shall deny any or all applications for permits or approvals, including building permits and

subdivision approvals, relating to nonforestry uses of land subject to the application;

(A) The department shall submit to the local governmental entity a copy of the statement of a forest landowner's intention not to convert which shall represent a recognition by the landowner that the six-year moratorium shall be imposed and shall preclude the landowner's ability to obtain development permits while the moratorium is in place. This statement shall be filed by the local governmental entity with the county recording officer, who shall record the documents as provided in chapter 65.04 RCW, except that lands designated as forest lands of long-term commercial significance under chapter 36.70A RCW shall not be recorded due to the low likelihood of conversion. Not recording the statement of a forest landowner's conversion intention shall not be construed to mean the moratorium is not in effect.

(B) The department shall collect the recording fee and reimburse the local governmental entity for the cost of recording the application.

(C) When harvesting takes place without an application, the local governmental entity shall impose the six-year moratorium provided in (b)(i) of this subsection from the date the unpermitted harvesting was discovered by the department or the local governmental entity.

(D) The local governmental entity shall develop a process for lifting the six-year moratorium, which shall include public notification, and procedures for appeals and public hearings.

(E) The local governmental entity may develop an administrative process for lifting or waiving the six-year moratorium for the purposes of constructing a single-family residence or outbuildings, or both, on a legal lot and building site. Lifting or waiving of the six-year moratorium is subject to compliance with all local ordinances.

(F) The six-year moratorium shall not be imposed on a forest practices application that contains a conversion option harvest plan approved by the local governmental entity unless the forest practice was not in compliance with the approved forest practice permit. Where not in compliance with the conversion option harvest plan, the six-year moratorium shall be imposed from the date the application was approved by the department or the local governmental entity;

(ii) Failure to comply with the reforestation requirements contained in any final order or decision shall constitute a removal of

designation under the provisions of RCW 84.33.140, and a change of use under the provisions of RCW 84.34.080, and, if applicable, shall subject such lands to the payments and/or penalties resulting from such removals or changes; and

(iii) Conversion to a use other than commercial forest product operations within six years after approval of the forest practices without the consent of the county, city, or town shall constitute a violation of each of the county, municipal city, town, and regional authorities to which the forest practice operations would have been subject if the application had so stated.

(c) The application or notification shall be signed by the forest landowner and accompanied by a statement signed by the forest landowner indicating his or her intent with respect to conversion and acknowledging that he or she is familiar with the effects of this subsection.

(4) Whenever an approved application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department two days before the commencement of actual operations.

(5) Before the operator commences any forest practice in a manner or to an extent significantly different from that described in a previously approved application or notification, there shall be submitted to the department a new application or notification form in the manner set forth in this section.

(6) Except as provided in RCW 76.09.350(4), the notification to or the approval given by the department to an application to conduct a forest practice shall be effective for a term of two years from the date of approval or notification and shall not be renewed unless a new application is filed and approved or a new notification has been filed. At the option of the applicant, an application or notification may be submitted to cover a single forest practice or a number of forest practices within reasonable geographic or political boundaries as specified by the department. An application or notification that covers more than one forest practice may have an effective term of more than two years. The board shall adopt rules that establish standards and procedures for approving an application or notification that has an effective term of more than two years. Such rules shall

include extended time periods for application or notification approval or disapproval. On an approved application with a term of more than two years, the applicant shall inform the department before commencing operations.

(7) Notwithstanding any other provision of this section, no prior application or notification shall be required for any emergency forest practice necessitated by fire, flood, windstorm, earthquake, or other emergency as defined by the board, but the operator shall submit an application or notification, whichever is applicable, to the department within forty-eight hours after commencement of such practice or as required by local regulations.

(8) Forest practices applications or notifications are not required for forest practices conducted to control exotic forest insect or disease outbreaks, when conducted by or under the direction of the department of agriculture in carrying out an order of the governor or director of the department of agriculture to implement pest control measures as authorized under chapter 17.24 RCW, and are not required when conducted by or under the direction of the department in carrying out emergency measures under a forest health emergency declaration by the commissioner of public lands as provided in RCW 76.06.130.

(a) For the purposes of this subsection, exotic forest insect or disease has the same meaning as defined in RCW 76.06.020.

(b) In order to minimize adverse impacts to public resources, control measures must be based on integrated pest management, as defined in RCW 17.15.010, and must follow forest practices rules relating to road construction and maintenance, timber harvest, and forest chemicals, to the extent possible without compromising control objectives.

(c) Agencies conducting or directing control efforts must provide advance notice to the appropriate regulatory staff of the department of the operations that would be subject to exemption from forest practices application or notification requirements.

(d) When the appropriate regulatory staff of the department are notified under (c) of this subsection, they must consult with the landowner, interested agencies, and affected tribes, and assist the notifying agencies in the development of integrated pest management plans that comply with forest practices rules as required under (b) of this subsection.

(e) Nothing under this subsection relieves agencies conducting or directing control efforts from requirements of the federal clean water act as administered by the department of ecology under RCW 90.48.260.

(f) Forest lands where trees have been cut as part of an exotic forest insect or disease control effort under this subsection are subject to reforestation requirements under RCW 76.09.070.

(g) The exemption from obtaining approved forest practices applications or notifications does not apply to forest practices conducted after the governor, the director of the department of agriculture, or the commissioner of public lands have declared that an emergency no longer exists because control objectives have been met, that there is no longer an imminent threat, or that there is no longer a good likelihood of control.

NEW SECTION. **Sec. 12.** A new section is added to chapter 76.09 RCW to read as follows:

The forest practices board shall evaluate the eastside riparian rules to determine if adjustments are needed to meet the riparian function intended by the rules and contribute toward forest health and wildfire protection goals set forth in RCW 76.06.140. The forest practices board shall consider creating a class of emergency forest practices or other mechanisms that will enable forest landowners to prevent the spread of disturbance agents, as defined in RCW 76.06.020, when rapid spread resulting in extensive loss is likely or has occurred. Such emergency forest practices or other mechanisms are intended to assist forest landowners in meeting their ownership objectives and protect public resources.

Sec. 13. RCW 76.04.005 and 1992 c 52 s 24 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Additional fire hazard" means a condition existing on any land in the state:

(a) Covered wholly or in part by forest debris which is likely to further the spread of fire and thereby endanger life or property; or

(b) When, due to the effects of disturbance agents, broken, down, dead, or dying trees exist on forest land in sufficient quantity to be likely to further the spread of fire within areas covered by a forest

health hazard warning or order issued by the commissioner of public lands under section 7 of this act. The term "additional fire hazard" does not include green trees or snags left standing in upland or riparian areas under the provisions of RCW 76.04.465 or chapter 76.09 RCW.

(2) "Closed season" means the period between April 15 and October 15, unless the department designates different dates because of prevailing fire weather conditions.

(3) "Department" means the department of natural resources, or its authorized representatives, as defined in chapter 43.30 RCW.

(4) "Department protected lands" means all lands subject to the forest protection assessment under RCW 76.04.610 or covered under contract or agreement pursuant to RCW 76.04.135 by the department.

(5) "Disturbance agent" means those agents that damage or kill significant numbers of forest trees, such as insects, diseases, other pests, wind storms, ice storms, and fires.

(6) "Emergency fire costs" means those costs incurred or approved by the department for emergency forest fire suppression, including the employment of personnel, rental of equipment, and purchase of supplies over and above costs regularly budgeted and provided for nonemergency fire expenses for the biennium in which the costs occur.

~~((6))~~ (7) "Forest debris" includes forest slash, chips, and any other vegetative residue resulting from activities on forest land.

~~((7))~~ (8) "Forest fire service" includes all wardens, rangers, and other persons employed especially for preventing or fighting forest fires.

~~((8))~~ (9) "Forest land" means any unimproved lands which have enough trees, standing or down, or flammable material, to constitute in the judgment of the department, a fire menace to life or property.

Sagebrush and grass areas east of the summit of the Cascade mountains may be considered forest lands when such areas are adjacent to or intermingled with areas supporting tree growth. Forest land, for protection purposes, does not include structures.

~~((9))~~ (10) "Forest landowner," "owner of forest land," "landowner," or "owner" means the owner or the person in possession of any public or private forest land.

~~((10))~~ (11) "Forest material" means forest slash, chips, timber, standing or down, or other vegetation.

~~((11))~~ (12) "Landowner operation" means every activity, and

supporting activities, of a forest landowner and the landowner's agents, employees, or independent contractors or permittees in the management and use of forest land subject to the forest protection assessment under RCW 76.04.610 for the primary benefit of the owner. The term includes, but is not limited to, the growing and harvesting of forest products, the development of transportation systems, the utilization of minerals or other natural resources, and the clearing of land. The term does not include recreational and/or residential activities not associated with these enumerated activities.

~~((12))~~ (13) "Participating landowner" means an owner of forest land whose land is subject to the forest protection assessment under RCW 76.04.610.

~~((13))~~ (14) "Slash" means organic forest debris such as tree tops, limbs, brush, and other dead flammable material remaining on forest land as a result of a landowner operation.

~~((14))~~ (15) "Slash burning" means the planned and controlled burning of forest debris on forest lands by broadcast burning, underburning, pile burning, or other means, for the purposes of silviculture, hazard abatement, or reduction and prevention or elimination of a fire hazard.

~~((15))~~ (16) "Suppression" means all activities involved in the containment and control of forest fires, including the patrolling thereof until such fires are extinguished or considered by the department to pose no further threat to life or property.

~~((16))~~ (17) "Unimproved lands" means those lands that will support grass, brush and tree growth, or other flammable material when such lands are not cleared or cultivated and, in the opinion of the department, are a fire menace to life and property.

Sec. 14. RCW 76.04.660 and 1986 c 100 s 39 are each amended to read as follows:

(1) The owner of land on which there is an additional fire hazard ~~((and the person responsible for the existence of an additional fire hazard))~~, when the hazard is the result of a landowner operation or the land is within an area covered by a forest health hazard warning issued under section 7 of this act, shall take reasonable measures to reduce the danger of fire spreading from the area and may abate the hazard by burning or other satisfactory means.

(2) An extreme fire hazard shall exist within areas covered by a

forest health hazard order issued by the commissioner of public lands under section 7 of this act in which there is an additional fire hazard caused by disturbance agents and the landowner has failed to take such action as required by the forest health hazard order. The duties and liability of such landowner under this chapter are as described in subsections (5), (6), and (7) of this section.

(3) The department shall adopt rules defining areas of extreme fire hazard that the owner and person responsible shall abate. The areas shall include but are not limited to high risk areas such as where life or buildings may be endangered, areas adjacent to public highways, and areas of frequent public use.

~~((3))~~ (4) The department may adopt rules, after consultation with the forest fire advisory board, defining other conditions of extreme fire hazard with a high potential for fire spreading to lands in other ownerships. The department may prescribe additional measures that shall be taken by the owner and person responsible to isolate or reduce the extreme fire hazard.

~~((4))~~ (5) The owner or person responsible for the existence of the extreme fire hazard is required to abate, isolate, or reduce the hazard. The duty to abate, isolate, or reduce, and liability under this chapter, arise upon creation of the extreme fire hazard. Liability shall include but not be limited to all fire suppression expenses incurred by the department, regardless of fire cause.

~~((5))~~ (6) If the owner or person responsible for the existence of the extreme fire hazard or forest debris subject to RCW 76.04.650 refuses, neglects, or unsuccessfully attempts to abate, isolate, or reduce the same, the department may summarily abate, isolate, or reduce the hazard as required by this chapter and recover twice the actual cost thereof from the owner or person responsible. Landowner contingency forest fire suppression account moneys may be used by the department, when available, for this purpose. Moneys recovered by the department pursuant to this section shall be returned to the landowner contingency forest fire suppression account.

~~((6))~~ (7) Such costs shall include all salaries and expenses of people and equipment incurred therein, including those of the department. All such costs shall also be a lien upon the land enforceable in the same manner with the same effect as a mechanic's lien.

~~((7))~~ (8) The summary action may be taken only after ten days'

notice in writing has been given to the owner or reputed owner of the land on which the extreme fire hazard or forest debris subject to RCW 76.04.650 exists. The notice shall include a suggested method of abatement and estimated cost thereof. The notice shall be by personal service or by registered or certified mail addressed to the owner or reputed owner at the owner's last known place of residence.

(9) A landowner or manager may make a written request to the department to inspect their property and provide a written notice that they have complied with a forest health hazard warning or forest health hazard order, or otherwise adequately abated, isolated, or reduced an additional or extreme fire hazard. An additional or extreme fire hazard shall be considered to continue to exist unless and until the department, in its sole discretion, issues such notice.

NEW SECTION. **Sec. 15.** The following acts or parts of acts are each repealed:

(1) RCW 76.06.050 (Infestation control district--Creation--Notice to owners) and 1988 c 128 s 17, 1961 c 72 s 1, & 1951 c 233 s 5;

(2) RCW 76.06.060 (Department to control pests and diseases if owner fails) and 1988 c 128 s 18 & 1951 c 233 s 6;

(3) RCW 76.06.070 (Lien for costs of control--Collection) and 1988 c 128 s 19 & 1951 c 233 s 7;

(4) RCW 76.06.080 (Owner complying with notice is exempt) and 1988 c 128 s 20 & 1951 c 233 s 11;

(5) RCW 76.06.090 (Dissolution of infestation control district) and 1988 c 128 s 21 & 1951 c 233 s 12; and

(6) RCW 76.06.110 (Deposit of moneys in general fund--Allotment as unanticipated receipts) and 1979 ex.s. c 67 s 12 & 1951 c 233 s 9.

Appendix 3

Proposed Legislation — Option 2: A 2-Tier System (Z-0347.2/07)

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0347.2/07 2nd draft

ATTY/TYPIST: AI:seg

BRIEF DESCRIPTION: Expanding provisions affecting forest health by creating a two tier technical assistance system.

AN ACT Relating to forest health; amending RCW 76.06.140, 76.06.020, 76.06.030, 76.06.040, 76.09.060, 76.04.005, and 76.04.660; adding new sections to chapter 76.06 RCW; adding a new section to chapter 76.09 RCW; and repealing RCW 76.06.050, 76.06.060, 76.06.070, 76.06.080, 76.06.090, and 76.06.110.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 76.06.140 and 2004 c 218 s 1 are each amended to read as follows:

~~((1))~~ The legislature finds ~~((that))~~ as follows:

(1) Washington faces serious forest health problems where forests are overcrowded or trees are infested with or susceptible to insects, diseases, wind, ice storms, and fire. The causes of and contributions to these susceptible conditions include fire suppression, past timber harvesting and silvicultural practices, altered species composition, and the amplified risks that occur when the urban interface penetrates forest land.

(2) ~~((The legislature further finds that))~~ There is a private and public interest in preventing and controlling uncharacteristic outbreaks of native and naturalized insects and diseases, and reducing

the risk of uncharacteristic loss due to ice storms, wind storms, and wildfire. The public interest is in protecting forest productivity on forests managed for commodity production; forest ecosystem vitality; reducing the cost of fire suppression and the resulting public expenditures; protecting, restoring, and enhancing fish and wildlife habitat, including the habitat of threatened or endangered species; and protecting drinking water supplies and water quality.

(3) Well managed forests are the first line of defense in preventing destructive fires and outbreaks of native insects and diseases. Active management of forests, consistent with landowner objectives and the protection of public resources, is the most economical and effective way to address forest health concerns. Native insects and diseases play important ecological roles when their occurrence does not present a material threat to forest productivity and increase the likelihood of destructive fire.

(4) Forest health problems may exist on forest land regardless of ownership, and the state should ((~~explore all possible avenues for working in~~)) pursue collaboration with the federal government to address common health deficiencies.

~~((3) The legislature further finds that healthy forests benefit not only the economic interests that rely on forest products but also provide environmental benefits, such as improved water quality and habitat for fish and wildlife.))~~

Sec. 2. RCW 76.06.020 and 2003 c 314 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agent" means the recognized legal representative, representatives, agent, or agents for any owner.

(2) "Commissioner" means the commissioner of public lands.

(3) "Department" means the department of natural resources.

~~((3) "Owner" means and includes persons or their agents.~~

~~(4) "Timber land" means any land on which there is a sufficient number of trees, standing or down, to constitute, in the judgment of the department, a forest insect or forest disease breeding ground of a nature to constitute a menace, injurious and dangerous to permanent forest growth in the district under consideration.~~

~~(5) "Commissioner" means the commissioner of public lands.~~

~~—(6))~~ (4) "Disturbance agent" means those forces that damage or kill significant numbers of forest trees, such as insects, diseases, other pests, wind storms, ice storms, and fires.

(5) "Exotic" means not native to forest lands in Washington state.

~~((7) "Forest land" means any land on which there are sufficient numbers and distribution of trees and associated species to, in the judgment of the department, contribute to the spread of forest insect or forest disease outbreaks that could be injurious to forest health.~~

~~—(8))~~ (6) "Forest health" means the condition of a forest being sound in ecological function, sustainable, resilient, and resistant to insects, diseases, fire, and other disturbance, and having the capacity to meet landowner objectives.

~~((9))~~ (7) "Forest health emergency" means the introduction of, or an outbreak of, an exotic forest insect or disease that poses an imminent danger of damage to the environment by threatening the survivability of native tree species.

~~((10))~~ (8) "Forest insect or disease" means a living stage of an insect, other invertebrate animal, or disease-causing organism or agent that can directly or indirectly injure or cause disease or damage in trees, or parts of trees, or in processed or manufactured wood, or other products of trees.

~~((11))~~ (9) "Forest land" means any land on which there are sufficient numbers and distribution of trees and associated species to, in the judgment of the department, contribute to the spread of forest insect or forest disease outbreaks that could be injurious to forest health.

(10) "Integrated pest management" means a strategy that uses various combinations of pest control methods, including biological, cultural, and chemical methods, in a compatible manner to achieve satisfactory control and ensure favorable economic and environmental consequences.

~~((12))~~ (11) "Native" means having populated Washington's forested lands prior to European settlement.

~~((13))~~ (12) "Outbreak" means a rapidly expanding population of insects or diseases with potential to spread.

(13) "Owner" means and includes persons or their agents.

(14) "Person" means any individual, partnership, private, public, or municipal corporation, county, federal, state, or local governmental agency, tribes, or association of individuals of whatever

nature.

(15) "Timber land" means any land on which there is a sufficient number of trees, standing or down, to constitute, in the judgment of the department, a forest insect or forest disease breeding ground of a nature to constitute a menace, injurious and dangerous to permanent forest growth in the district under consideration.

Sec. 3. RCW 76.06.030 and 1988 c 128 s 16 are each amended to read as follows:

(1) This chapter shall be administered by the department.

(2) The department has the lead role in developing a comprehensive forest health program to achieve the goals of this act. Within available funding, the department shall:

(a) Develop, gather, and disseminate information on forest health conditions, monitor forest health conditions and changes over time, and coordinate and enter agreements with interested and affected parties;

(b) Coordinate with universities, university extension services, federal and state agencies, private, public, and tribal forest landowners, consulting foresters, and forest managers to monitor forest fuel buildup, forest insect and disease outbreaks, and wind and ice storm events; and

(c) Coordinate with universities, university extension services, and state and federal agencies to provide education and technical assistance to private, public, and tribal forest landowners on silvicultural and forest management science, techniques, and technology to maintain forests in conditions that are resistant to disturbance agents.

(3) The department may implement a committee to advise on subjects and procedures for monitoring forest health conditions and program activities.

(4) The department may coordinate, support, and assist in establishing cooperative forest health projects to control and contain outbreaks of insects or diseases. Priority for assistance authorized under this section shall be given to areas under forest health hazard warnings and areas where forest health decline has resulted in increased risk to public safety from destructive wildfire.

(5) The state and its officers and employees are not liable for damages to a person or their property to the extent that liability is

asserted to arise from providing or failing to provide assistance under this act.

Sec. 4. RCW 76.06.040 and 1951 c 233 s 4 are each amended to read as follows:

~~((Every owner of timber lands, or his agent, shall make every reasonable effort to control, destroy and eradicate such forest insect pests and forest tree diseases which threaten the existence of any stand of timber or provide for the same to be done on timber lands owned by him or under his control. In the event he fails, neglects, or is unable to accomplish such control, the action may be performed as provided for in this chapter.))~~ Landowners and managers are encouraged to maintain their forest lands in a healthy condition in order to meet their individual ownership objectives, protect public resources as defined in chapter 76.09 RCW, and avoid contributing to forest insect or disease outbreaks or increasing the risk of destructive fire.

NEW SECTION. **Sec. 5.** A new section is added to chapter 76.06 RCW to read as follows:

Forest health issues shall be addressed by a tiered system.

(1) The first tier is intended to maintain forest health and protect forests from disturbance agents through the voluntary efforts of landowners. Tier 1 is the desired status. Consistent with landowner objectives and the protection of public resources, forests should be managed in ways that create, restore, or maintain healthy forest ecosystems so that disturbance agents occur or exist at nonepidemic levels. To the extent of available funding, information and technical assistance will be made available to forest landowners so they can plan for and implement necessary forest health maintenance and restoration activities.

(2) The second tier is intended to manage the development of threats to forest health, or contain or suppress existing threats to forest health, due to disturbance agents. Actions by landowners to address such threats to forest health are voluntary except as required under chapter 76.04 RCW to reduce the danger of the spread of fire. Actions suggested to reduce threats to forest health are specified in forest health hazard warnings issued by the commissioner of public lands under section 7 of this act. Within available funding, site-

specific information, technical assistance, and project coordination services shall be offered as determined appropriate by the department.

NEW SECTION. **Sec. 6.** A new section is added to chapter 76.06 RCW to read as follows:

(1) The commissioner of public lands may appoint a forest health technical advisory committee when the commissioner determines that forest lands in any area of the state appear to be threatened by a forest health condition of such a nature, extent, or timing that action to reduce the threat may be necessary.

(a) The committee shall consist of one scientist chosen for expertise in forest ecology, two scientists chosen for expertise relative to the attendant risk, one specialist in wildfire protection, one specialist in fuels management, one forester with extensive silvicultural experience in the affected forest type, and a chairperson who shall represent the commissioner. The departments of fish and wildlife, ecology, and natural resources shall provide technical assistance to the committee in the areas of fish and wildlife, water quality, and forest practices, but shall not be members of the committee. The director of forest health protection of region 6 of the United States department of agriculture forest service or their named designee shall be invited to be an ex officio member of the committee. In the event the area affected contains substantial acreage of tribal or federally owned lands, representatives of the affected agencies and tribes shall be invited to participate in the proceedings of the committee.

(b) The commissioner may disband the committee when he or she deems appropriate.

(2) The committee shall evaluate the threat to forest health and make a timely report to the commissioner on its nature, extent, and location.

(a) In its deliberations, the committee shall consider the need for action to reduce the threat and alternative methods of achieving the desired results, including the environmental risks associated with the alternatives.

(b) The committee shall also recommend potential approaches to achieve the desired results for forest land ownerships of fewer than ten acres and for forests owned for scientific, study, recreational, or other uses not compatible with active management.

(c) The committee shall recommend to the commissioner whether a forest health hazard warning is warranted.

(d) When the commissioner issues a forest health hazard warning, the committee shall monitor the progress and results of activities to control or mitigate the hazard, and periodically report its findings to the commissioner.

(3) The exercise by forest health technical advisory committee members of their authority under this section shall not imply or create any liability on their part. Advisory committee members shall be compensated as provided in RCW 43.03.250 and shall receive reimbursement for travel expenses as provided by RCW 43.03.050 and 43.03.060. Costs associated with the committee may be paid from the general fund appropriation made available to the department of natural resources for fire suppression.

NEW SECTION. **Sec. 7.** A new section is added to chapter 76.06 RCW to read as follows:

(1) Prior to issuing a forest health hazard warning, the commissioner shall consider the findings and recommendations of the forest health technical advisory committee and shall consult with county government officials, forest landowners and forest land managers, consulting foresters, and other interested parties to gather information on the threat, opportunities or constraints on control mechanisms, and other information they may provide. The commissioner, or a designee, shall conduct a public hearing in a county within the geographical area being considered.

(2) The commissioner of public lands may issue a forest health hazard warning when he or she deems such action is necessary to manage the development of a threat to forest health or contain or suppress an existing threat to forest health. A decision to issue a forest health hazard warning may be based on existing forest stand conditions and:

(a) The presence of insects, disease, or other pests that are likely to (i) spread to multiple forest ownerships and, if not controlled or contained, cause extensive damage to forests; or (ii) increase forest fuel that is likely to further the spread of fire;

(b) When, due to physical damage from wind or ice storm or other cause, there is the likelihood of (i) insect populations building up to damaging levels; or (ii) increasing forest fuel that is likely to further the spread of fire; or

(c) When otherwise determined by the commissioner to be appropriate.

(3) A forest health hazard warning shall be issued by use of a commissioner's order. General notice of the commissioner's order shall be published in a newspaper of general circulation in each county within the area covered by the order and on the department's web site. The order shall specify the boundaries of the area affected, including federal and tribal lands, the forest stand conditions that would make a parcel subject to the provisions of the order, and the actions landowners or land managers should take to reduce the hazard.

(4) Written notice of a forest health hazard warning shall be provided to forest landowners of specifically affected property.

(a) The notice shall set forth:

(i) The reasons for the action;

(ii) The boundaries of the area affected, including federal and tribal lands;

(iii) Suggested actions that should be taken by the forest landowner;

(iv) The time within which such actions should be taken;

(v) How to obtain information or technical assistance on forest health conditions and treatment options;

(vi) These requirements are advisory only for federal or tribal land.

(b) The notice shall be served by personal service or by mail to the latest recorded real property owner, as shown by the records of the county recording officer as defined in RCW 65.08.060. Service by mail is effective on the date of mailing. Proof of service shall be by affidavit or declaration under penalty of perjury.

(5) Upon written request, the department may certify as adequate a forest health management plan developed by a forest landowner, before or in response to a forest health hazard warning, if the plan is likely to achieve the desired result and the terms of the plan are being diligently followed by the forest landowner. The certification of adequacy shall be determined by the department in its sole discretion, and be provided to the requestor in writing.

NEW SECTION. **Sec. 8.** A new section is added to chapter 76.06 RCW to read as follows:

Nothing in this act shall exempt actions specified under

the authority of this act from the application of the provisions of chapter 76.09 RCW and rules adopted thereunder which govern forest practices.

NEW SECTION. **Sec. 9.** A new section is added to chapter 76.06 RCW to read as follows:

If any part of this chapter or requirements imposed upon landowners pursuant to this chapter are found to conflict with requirements of other statutes or rules, the conflicting part of this chapter or requirements imposed pursuant to this chapter shall be inoperative solely to the extent of the conflict. The finding or determination shall not affect the operation of the remainder of this chapter or such requirements.

Sec. 10. RCW 76.09.060 and 2005 c 274 s 357 are each amended to read as follows:

~~((The following shall apply to those forest practices administered and enforced by the department and for which the board shall promulgate regulations as provided in this chapter:))~~

(1) The department shall prescribe the form and contents of the notification and application. The forest practices rules shall specify by whom and under what conditions the notification and application shall be signed or otherwise certified as acceptable. Activities conducted by the department or a contractor under the direction of the department under the provisions of RCW 76.04.660, shall be exempt from the landowner signature requirement on any forest practice application required to be filed. The application or notification shall be delivered in person to the department, sent by first class mail to the department or electronically filed in a form defined by the department. The form for electronic filing shall be readily convertible to a paper copy, which shall be available to the public pursuant to chapter 42.56 RCW. The information required may include, but is not limited to:

(a) Name and address of the forest landowner, timber owner, and operator;

(b) Description of the proposed forest practice or practices to be conducted;

(c) Legal description and tax parcel identification numbers of the land on which the forest practices are to be conducted;

(d) Planimetric and topographic maps showing location and size of all lakes and streams and other public waters in and immediately adjacent to the operating area and showing all existing and proposed roads and major tractor roads;

(e) Description of the silvicultural, harvesting, or other forest practice methods to be used, including the type of equipment to be used and materials to be applied;

(f) Proposed plan for reforestation and for any revegetation necessary to reduce erosion potential from roadsides and yarding roads, as required by the forest practices rules;

(g) Soil, geological, and hydrological data with respect to forest practices;

(h) The expected dates of commencement and completion of all forest practices specified in the application;

(i) Provisions for continuing maintenance of roads and other construction or other measures necessary to afford protection to public resources;

(j) An affirmation that the statements contained in the notification or application are true; and

(k) All necessary application or notification fees.

(2) Long range plans may be submitted to the department for review and consultation.

(3) The application for a forest practice or the notification of a Class II forest practice is subject to the three-year reforestation requirement.

(a) If the application states that any such land will be or is intended to be so converted:

(i) The reforestation requirements of this chapter and of the forest practices rules shall not apply if the land is in fact so converted unless applicable alternatives or limitations are provided in forest practices rules issued under RCW 76.09.070 as now or hereafter amended;

(ii) Completion of such forest practice operations shall be deemed conversion of the lands to another use for purposes of chapters 84.33 and 84.34 RCW unless the conversion is to a use permitted under a current use tax agreement permitted under chapter 84.34 RCW;

(iii) The forest practices described in the application are subject to applicable county, city, town, and regional governmental authority permitted under RCW 76.09.240 as now or hereafter amended as

well as the forest practices rules.

(b) Except as provided elsewhere in this section, if the application or notification does not state that any land covered by the application or notification will be or is intended to be so converted:

(i) For six years after the date of the application the county, city, town, and regional governmental entities shall deny any or all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of land subject to the application;

(A) The department shall submit to the local governmental entity a copy of the statement of a forest landowner's intention not to convert which shall represent a recognition by the landowner that the six-year moratorium shall be imposed and shall preclude the landowner's ability to obtain development permits while the moratorium is in place. This statement shall be filed by the local governmental entity with the county recording officer, who shall record the documents as provided in chapter 65.04 RCW, except that lands designated as forest lands of long-term commercial significance under chapter 36.70A RCW shall not be recorded due to the low likelihood of conversion. Not recording the statement of a forest landowner's conversion intention shall not be construed to mean the moratorium is not in effect.

(B) The department shall collect the recording fee and reimburse the local governmental entity for the cost of recording the application.

(C) When harvesting takes place without an application, the local governmental entity shall impose the six-year moratorium provided in (b)(i) of this subsection from the date the unpermitted harvesting was discovered by the department or the local governmental entity.

(D) The local governmental entity shall develop a process for lifting the six-year moratorium, which shall include public notification, and procedures for appeals and public hearings.

(E) The local governmental entity may develop an administrative process for lifting or waiving the six-year moratorium for the purposes of constructing a single-family residence or outbuildings, or both, on a legal lot and building site. Lifting or waiving of the six-year moratorium is subject to compliance with all local ordinances.

(F) The six-year moratorium shall not be imposed on a forest

practices application that contains a conversion option harvest plan approved by the local governmental entity unless the forest practice was not in compliance with the approved forest practice permit. Where not in compliance with the conversion option harvest plan, the six-year moratorium shall be imposed from the date the application was approved by the department or the local governmental entity;

(ii) Failure to comply with the reforestation requirements contained in any final order or decision shall constitute a removal of designation under the provisions of RCW 84.33.140, and a change of use under the provisions of RCW 84.34.080, and, if applicable, shall subject such lands to the payments and/or penalties resulting from such removals or changes; and

(iii) Conversion to a use other than commercial forest product operations within six years after approval of the forest practices without the consent of the county, city, or town shall constitute a violation of each of the county, municipal city, town, and regional authorities to which the forest practice operations would have been subject if the application had so stated.

(c) The application or notification shall be signed by the forest landowner and accompanied by a statement signed by the forest landowner indicating his or her intent with respect to conversion and acknowledging that he or she is familiar with the effects of this subsection.

(4) Whenever an approved application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department two days before the commencement of actual operations.

(5) Before the operator commences any forest practice in a manner or to an extent significantly different from that described in a previously approved application or notification, there shall be submitted to the department a new application or notification form in the manner set forth in this section.

(6) Except as provided in RCW 76.09.350(4), the notification to or the approval given by the department to an application to conduct a forest practice shall be effective for a term of two years from the date of approval or notification and shall not be renewed unless a new application is filed and approved or a new notification has been

filed. At the option of the applicant, an application or notification may be submitted to cover a single forest practice or a number of forest practices within reasonable geographic or political boundaries as specified by the department. An application or notification that covers more than one forest practice may have an effective term of more than two years. The board shall adopt rules that establish standards and procedures for approving an application or notification that has an effective term of more than two years. Such rules shall include extended time periods for application or notification approval or disapproval. On an approved application with a term of more than two years, the applicant shall inform the department before commencing operations.

(7) Notwithstanding any other provision of this section, no prior application or notification shall be required for any emergency forest practice necessitated by fire, flood, windstorm, earthquake, or other emergency as defined by the board, but the operator shall submit an application or notification, whichever is applicable, to the department within forty-eight hours after commencement of such practice or as required by local regulations.

(8) Forest practices applications or notifications are not required for forest practices conducted to control exotic forest insect or disease outbreaks, when conducted by or under the direction of the department of agriculture in carrying out an order of the governor or director of the department of agriculture to implement pest control measures as authorized under chapter 17.24 RCW, and are not required when conducted by or under the direction of the department in carrying out emergency measures under a forest health emergency declaration by the commissioner of public lands as provided in RCW 76.06.130.

(a) For the purposes of this subsection, exotic forest insect or disease has the same meaning as defined in RCW 76.06.020.

(b) In order to minimize adverse impacts to public resources, control measures must be based on integrated pest management, as defined in RCW 17.15.010, and must follow forest practices rules relating to road construction and maintenance, timber harvest, and forest chemicals, to the extent possible without compromising control objectives.

(c) Agencies conducting or directing control efforts must provide advance notice to the appropriate regulatory staff of the department

of the operations that would be subject to exemption from forest practices application or notification requirements.

(d) When the appropriate regulatory staff of the department are notified under (c) of this subsection, they must consult with the landowner, interested agencies, and affected tribes, and assist the notifying agencies in the development of integrated pest management plans that comply with forest practices rules as required under (b) of this subsection.

(e) Nothing under this subsection relieves agencies conducting or directing control efforts from requirements of the federal clean water act as administered by the department of ecology under RCW 90.48.260.

(f) Forest lands where trees have been cut as part of an exotic forest insect or disease control effort under this subsection are subject to reforestation requirements under RCW 76.09.070.

(g) The exemption from obtaining approved forest practices applications or notifications does not apply to forest practices conducted after the governor, the director of the department of agriculture, or the commissioner of public lands have declared that an emergency no longer exists because control objectives have been met, that there is no longer an imminent threat, or that there is no longer a good likelihood of control.

NEW SECTION. **Sec. 11.** A new section is added to chapter 76.09 RCW to read as follows:

The forest practices board shall evaluate the eastside riparian rules to determine if adjustments are needed to meet the riparian function intended by the rules and contribute toward forest health and wildfire protection goals set forth in RCW 76.06.140. The forest practices board shall consider creating a class of emergency forest practices or other mechanisms that will enable forest landowners to prevent the spread of disturbance agents, as defined in RCW 76.04.005, when rapid spread resulting in extensive loss is likely or has occurred. Such emergency forest practices or other mechanisms are intended to assist forest landowners in meeting their ownership objectives and protect public resources.

Sec. 12. RCW 76.04.005 and 1992 c 52 s 24 are each amended to read as follows:

As used in this chapter, the following terms have the meanings

indicated unless the context clearly requires otherwise.

(1) "Additional fire hazard" means a condition existing on any land in the state:

(a) Covered wholly or in part by forest debris which is likely to further the spread of fire and thereby endanger life or property; or

(b) When, due to the effects of disturbance agents, broken, down, dead, or dying trees exist on forest land in sufficient quantity to be likely to further the spread of fire within areas covered by a forest health hazard warning issued by the commissioner of public lands under section 7 of this act. The term "additional fire hazard" does not include green trees or snags left standing in upland or riparian areas under the provisions of RCW 76.04.465 or chapter 76.09 RCW.

(2) "Closed season" means the period between April 15 and October 15, unless the department designates different dates because of prevailing fire weather conditions.

(3) "Department" means the department of natural resources, or its authorized representatives, as defined in chapter 43.30 RCW.

(4) "Department protected lands" means all lands subject to the forest protection assessment under RCW 76.04.610 or covered under contract or agreement pursuant to RCW 76.04.135 by the department.

(5) "Disturbance agent" means those agents that damage or kill significant numbers of forest trees, such as insects, diseases, other pests, wind storms, ice storms, and fires.

(6) "Emergency fire costs" means those costs incurred or approved by the department for emergency forest fire suppression, including the employment of personnel, rental of equipment, and purchase of supplies over and above costs regularly budgeted and provided for nonemergency fire expenses for the biennium in which the costs occur.

~~((6))~~ (7) "Forest debris" includes forest slash, chips, and any other vegetative residue resulting from activities on forest land.

~~((7))~~ (8) "Forest fire service" includes all wardens, rangers, and other persons employed especially for preventing or fighting forest fires.

~~((8))~~ (9) "Forest land" means any unimproved lands which have enough trees, standing or down, or flammable material, to constitute in the judgment of the department, a fire menace to life or property.

Sagebrush and grass areas east of the summit of the Cascade mountains may be considered forest lands when such areas are adjacent to or intermingled with areas supporting tree growth. Forest land, for

protection purposes, does not include structures.

~~((9))~~ (10) "Forest landowner," "owner of forest land," "landowner," or "owner" means the owner or the person in possession of any public or private forest land.

~~((10))~~ (11) "Forest material" means forest slash, chips, timber, standing or down, or other vegetation.

~~((11))~~ (12) "Landowner operation" means every activity, and supporting activities, of a forest landowner and the landowner's agents, employees, or independent contractors or permittees in the management and use of forest land subject to the forest protection assessment under RCW 76.04.610 for the primary benefit of the owner. The term includes, but is not limited to, the growing and harvesting of forest products, the development of transportation systems, the utilization of minerals or other natural resources, and the clearing of land. The term does not include recreational and/or residential activities not associated with these enumerated activities.

~~((12))~~ (13) "Participating landowner" means an owner of forest land whose land is subject to the forest protection assessment under RCW 76.04.610.

~~((13))~~ (14) "Slash" means organic forest debris such as tree tops, limbs, brush, and other dead flammable material remaining on forest land as a result of a landowner operation.

~~((14))~~ (15) "Slash burning" means the planned and controlled burning of forest debris on forest lands by broadcast burning, underburning, pile burning, or other means, for the purposes of silviculture, hazard abatement, or reduction and prevention or elimination of a fire hazard.

~~((15))~~ (16) "Suppression" means all activities involved in the containment and control of forest fires, including the patrolling thereof until such fires are extinguished or considered by the department to pose no further threat to life or property.

~~((16))~~ (17) "Unimproved lands" means those lands that will support grass, brush and tree growth, or other flammable material when such lands are not cleared or cultivated and, in the opinion of the department, are a fire menace to life and property.

Sec. 13. RCW 76.04.660 and 1986 c 100 s 39 are each amended to read as follows:

(1) The owner of land on which there is an additional fire hazard

~~((and the person responsible for the existence of an additional fire hazard)),~~ when the hazard is the result of a landowner operation or the land is within an area covered by a forest health hazard warning issued under section 7 of this act, shall take reasonable measures to reduce the danger of fire spreading from the area and may abate the hazard by burning or other satisfactory means.

(2) The department shall adopt rules defining areas of extreme fire hazard that the owner and person responsible shall abate. The areas shall include but are not limited to high risk areas such as where life or buildings may be endangered, areas adjacent to public highways, and areas of frequent public use.

(3) The department may adopt rules, after consultation with the forest fire advisory board, defining other conditions of extreme fire hazard with a high potential for fire spreading to lands in other ownerships. The department may prescribe additional measures that shall be taken by the owner and person responsible to isolate or reduce the extreme fire hazard.

(4) The owner or person responsible for the existence of the extreme fire hazard is required to abate, isolate, or reduce the hazard. The duty to abate, isolate, or reduce, and liability under this chapter, arise upon creation of the extreme fire hazard. Liability shall include but not be limited to all fire suppression expenses incurred by the department, regardless of fire cause.

(5) If the owner or person responsible for the existence of the extreme fire hazard or forest debris subject to RCW 76.04.650 refuses, neglects, or unsuccessfully attempts to abate, isolate, or reduce the same, the department may summarily abate, isolate, or reduce the hazard as required by this chapter and recover twice the actual cost thereof from the owner or person responsible. Landowner contingency forest fire suppression account moneys may be used by the department, when available, for this purpose. Moneys recovered by the department pursuant to this section shall be returned to the landowner contingency forest fire suppression account.

(6) Such costs shall include all salaries and expenses of people and equipment incurred therein, including those of the department. All such costs shall also be a lien upon the land enforceable in the same manner with the same effect as a mechanic's lien.

(7) The summary action may be taken only after ten days' notice in writing has been given to the owner or reputed owner of the land on

which the extreme fire hazard or forest debris subject to RCW 76.04.650 exists. The notice shall include a suggested method of abatement and estimated cost thereof. The notice shall be by personal service or by registered or certified mail addressed to the owner or reputed owner at the owner's last known place of residence.

(8) A landowner or manager may make a written request to the department to inspect their property and provide a written notice that they have complied with a forest health hazard warning, or otherwise adequately abated, isolated, or reduced an additional or extreme fire hazard. An additional or extreme fire hazard shall be considered to continue to exist unless and until the department, in its sole discretion, issues such notice.

NEW SECTION. **Sec. 14.** The following acts or parts of acts are each repealed:

(1) RCW 76.06.050 (Infestation control district--Creation--Notice to owners) and 1988 c 128 s 17, 1961 c 72 s 1, & 1951 c 233 s 5;

(2) RCW 76.06.060 (Department to control pests and diseases if owner fails) and 1988 c 128 s 18 & 1951 c 233 s 6;

(3) RCW 76.06.070 (Lien for costs of control--Collection) and 1988 c 128 s 19 & 1951 c 233 s 7;

(4) RCW 76.06.080 (Owner complying with notice is exempt) and 1988 c 128 s 20 & 1951 c 233 s 11;

(5) RCW 76.06.090 (Dissolution of infestation control district) and 1988 c 128 s 21 & 1951 c 233 s 12; and

(6) RCW 76.06.110 (Deposit of moneys in general fund--Allotment as unanticipated receipts) and 1979 ex.s. c 67 s 12 & 1951 c 233 s 9.

Appendix 4

Forest Health Decision Package

Submitted by DNR to the Governor with 2007-2009 Budget Request

FINAL

Agency: 490 Department of Natural Resources

Decision Package Code/Title: RH Forest Health: Strategic Plan

Budget Period: 2007-09

Budget Level: PL - Performance Level

Recommendation Summary Text:

Washington's forests are facing current problems and worsening trends related to insects, diseases, and wildfire. In 2004, the Legislature authorized the Forest Health Strategy Work Group (FHSWG) to make recommendations regarding the situation and solutions. This proposal implements the initial FHSWG recommendations.

Fiscal Detail

Operating Expenditures	<u>FY 2008</u>	<u>FY 2009</u>	<u>Total</u>
001-1 General Fund - Basic Account-State	777,800	752,800	1,530,600
Total Cost	777,800	752,800	1,530,600

Staffing	<u>FY 2008</u>	<u>FY 2009</u>	<u>Annual Average</u>
FTEs	5.8	5.8	5.8

Package Description:

Washington's forests are seriously threatened by insects, diseases and wildfire. Addressing that threat requires new attention and strategies, including changes to insect and disease regulations that will encourage forest management activities that reduce tree stress and high-risk forest structures. The current forest health program (4.5 permanent FTE's) is increasingly supported by temporary federal funding. It provides insect and disease monitoring and technical assistance to state and private forest landowners throughout Washington. It does not have the analytical capacity, delivery capacity, or legal structure to stimulate significant changes in forest condition that will reduce risk. The recommendations reflected in this decision package were made by a group of experts (Forest Health Strategy Work Group) assembled at the request of the Legislature in 2004 and examined at public meetings in 2006.

This package affects the DNR activity, resource protection.

Specific, highest priority items for funding include:

1) 2 FTE - The FHSWG believes an element of outreach should be included with the pilot project of data collection and analysis, so that as information is developed, it can be delivered to landowners and land managers in the project area. This includes one Stewardship-type Forester, a Communications Specialist and funding for Forest Health/Fire Prevention outreach activities and products

2) 1 FTE to work with federal land management agencies to influence their planning processes and outcomes so the burden of restoring or maintaining forests in healthy condition is equitably spread among all landowner groups.

3) 1.75 FTE to implement the Department's Strategic Plan for Forest Health by adding Forest Health Program capacity. This will include a program manager and funding for the annual aerial survey, special surveys such as defoliator trapping and Sudden Oak Death stream monitoring, and participation in special planning/policy projects.

4) 0 FTE - There is not sufficient readily available spatially explicit information on forest health issues to develop priorities for treatment. The FHSWG recommends a pilot project of gathering and displaying spatially explicit information at the scale of at least one county or parts of two or more counties that represent a discrete working circle with multiple ownerships and that have serious forest health issues (contractual). Pilot will include the limited refinement of density thresholds, development of management plans for several owners in the sample area, and training of the trainers that will be providing assistance.

This request would address the recommendations of the FHSWG through the following work plan elements.

Influence federal planning process and outcomes:

- 1) Participate in update of National Fire Plan
- 2) Actively participate in review of Forest Plans.

Develop Legislation and budget items.

Write Strategic Plan for Forest Health.

Surveys and Technical Assistance Maintenance:

- 1) Aerial Survey completed; maps and reports produced
- 2) Sudden Oak Death forest survey
- 3) Defoliator trapping in eastern Washington
- 4) Technical assistance delivered.

Pilot project and pilot outreach:

- 1) Conduct spatially explicit analysis of forest health issues
- 2) Publicize products
- 3) Forest Health Communication Strategy developed and implemented
- 4) Significant articles published
- 5) Train the trainer workshop
- 6) Landowner Workshops held, and
- 7) Mailing or technical contact.

State funds for Forest Health/Fire Prevention outreach funds doubled by partner contributions and products completed.

Narrative Justification and Impact Statement

How contributes to strategic plan:

Priorities of Government:

- * Improve the quality of Washington's natural resources.
- * Improve the safety of people and property.
- * Improve the economic vitality of businesses and individuals.
- * Improve cultural and recreational opportunities throughout the state.

DNR Strategic Goals:

This package contributes to Department of Natural Resources (DNR) Strategic Plan Goals by facilitating forest health improvements and reducing risk of extreme wildfire behavior:

- * Forest systems enjoy equal or greater health and productivity
- * Losses to life from fire are prevented and property loss is minimized.
- * DNR's workforce is skilled, knowledgeable, motivated, and effective.

Activities:

Resource Protection

Resource Protection Division's Forest Health program and Fire Control program have recently developed strategic plans. This decision package would contribute to both efforts by providing information, technical assistance, and momentum to increase appropriate forest management and reduce risks to public and private resources and safety.

Performance Measure Detail

Activity: **A046** **Resource Protection**

Incremental Changes

No measures submitted for package

Reason for change:

Expected Result:

The state of Washington would have a Strategic Plan for Forest Health.

The Strategic Plan for Forest Health would identify the problems and issues of forest health in the state of Washington and identify mitigation measures to address those problems.

Impact on clients and services:

Program capacity would be increased to implement recommendations of the Forest Health Strategy Work Group.

Impact on other state programs:

The FHSWG Report recommendations are closely linked to the other programs in the Resource Protection Division via the Fire Strategic Plan; to the University of Washington for spatial explicit analysis; to the Small Forest Landowner Office (Forest Practices Division) and WSU/County Extension for landowner education and contacts; and to major forest landowners including state and federal and tribal entities.

Relationship to capital budget:

None

Required changes to existing RCW, WAC, contract, or plan:

Changes in RCW 76.06 and RCW 76.04 were recommended in the FHSWG Report and Fire Strategic Plan. Changes are likely, but the specific nature of those changes is uncertain. Statewide public meetings to obtain input on draft legislation are occurring in August 2006.

Alternatives explored by agency:

The Forest Health program has been seeking improvements to RCW 76.06 Forest Insect and Disease Control for several years in order to facilitate reducing risks from forest insects, diseases and fire. The program has obtained temporary federal grants to continue and enhance needed surveys and insect and disease technical assistance services to landowners. An alternative is to continue limping along in this manner, while the forest health risks persist and worsen. The availability of federal grant funds and DNR's success at competing for them in the future is uncertain. The FHSWG and DNR 2006 Fire Strategic Plan recommended that new effort be initiated to achieve long term cooperation and improvements by all forest landowners in order to alter worsening trends in forest health and wildfire protection.

Budget impacts in future biennia:

The analysis and information development associated with the initial pilot project are not continuing expenses, but there will continue to be significant impacts in future years due to new staff. Over time, costs of pest suppression and fire fighting will be reduced, but those cannot specifically be projected at this time.

Distinction between one-time and ongoing costs:

One-time costs in this request are \$175,000 in FY08 and \$150,000 in FY09 for analysis costs associated with a pilot project in eastern Washington. Other costs are ongoing and are clearly shown in the expenditure spreadsheet.

Effects of non-funding:

Forest health staff is currently working at capacity to monitor insects and diseases and provide technical assistance to state and private forest landowners. Due to budget and time restraints, we are rarely able to effectively warn groups of landowners when insect or disease problems are developing in their area. We are unable to effectively publicize the problems. We are unable to motivate, facilitate or coordinate significant forest management efforts to change worsening trends. Wildfire suppression continues to grow more challenging in dense forests with significant components of dead trees. Public safety is threatened. Without this decision package, forest conditions will continue to worsen. Management options will decline. Wildfires will become more expensive to fight. And public safety will be increasingly threatened. Moreover, forest health program services will be reduced as federal grant funds diminish.

Expenditure Calculations and Assumptions:

Staffing is based on an average staff month cost for the Forest Health program. Benefits are based on FY07 rates. Goods & Services and Travel are based on program averages. Contractual amounts (ER) based on estimation of amount required. Administrative cost is added at 24% of "objects" A, B, E (not ER), and G and is reflected in "object" T. There is an estimated 1.0 FTE admin staff associated with this request.

<u>Object Detail</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>Total</u>
A Salaries And Wages	253,000	253,000	506,000
B Employee Benefits	74,100	74,100	148,200
E Goods And Services	297,200	272,200	569,400
G Travel	59,300	59,300	118,600
T Intra-Agency Reimbursements	94,200	94,200	188,400
Total Objects	777,800	752,800	1,530,600

Appendix 5

Actions taken Through October 2006 on Forest Health Strategy Work Group Recommendations in 2004 Report to the Legislature

Karen Ripley
DNR Forest Health Program

A diverse variety of high-priority recommendations were part of the Forest Health Strategy Work Group (FHSWG) 2004 report *A Desirable Forest Health Program for Washington's Forests*¹. This paper lists activities and accomplishments through October 2006 as they relate to those recommendations. The recommendations are copied from Appendix 2 (pgs 31-37) of the Report. Activities and accomplishments are provided in *italic* script. Although most recommendations require additional significant continuing work, a great deal is being accomplished now with existing resources or is being presented to the Legislature for consideration and funding in 2007.

General

Promote wider understanding that poor forest health conditions create severe fire behavior and that widespread public and private benefits can result from improved forest management.

Publicized this connection between forest health and severe fire behavior in eight public meetings held across Washington in 2006. Included Forest Health as foundation of Fire Strategic Plan. Circulated "Forest Health and Wildfires – A Net Cost Approach to a True Wildfire Protection Program" to State Foresters and Western Forestry Leadership Coalition. Seeking Communication Specialist (1FTE) for forest health and fire protection in 2007 forest health budget decision package request.

The Legislature should recommend a panel investigate and quantify non-market values associated with forest health management activities and should consider its recommendations when directing future activities.

No action.

The legislature consider directing coordinated changes to the statewide smoke management plan that would encourage maximum use of silvicultural burning where appropriate for forest health improvement. The direction should address areas where the state smoke management plan is more stringent than the National Clean Air Act and allow brief exceedence of standards to alleviate future wildfire events that are uncontrolled and have a greater, more prolonged impact on the public.

¹ <http://www.dnr.wa.gov/htdocs/rp/forhealth/fhswgc/pdf/foresthealthreport.pdf>

DNR and DOE are currently working on agreements that will potentially create more opportunities for silvicultural burning. If Legislative intervention is needed, it will likely be indicated in the FHSWG report to the legislature in December, 2006.

Work Group Activities

Workshops should be held across the state in CY 2005 to inform landowners and managers, communities of interest, public officials, and the general public of the Work Groups findings and recommendations, take public comment and input into the legislation, and provide the legislature with a proposed bill, along with a summary of the issues identified in the public process.

Eight public meetings were held in August 2006. A 2006 report is being prepared for December 2006 transmittal to the Legislature.

The Legislature should extend the Work Group through the 2005-2007 biennium and appropriate funds to the DNR to pay the expenses of committee members who are not state employees, and for expenses necessary to conduct the public meetings and hearings discussed above.

Work Group was extended and public meetings were conducted. Will report to Legislature in December, 2006.

Determine which of Washington's forestlands are at greatest risk

A DNR strategy is needed for determining Washington's forestlands that are at greatest risk. DNR should coordinate the development of a Regional Forest Health Modeling capability that merges the available remote sensing and existing inventory data with existing GIS layers and offers these data in downloadable form. This will assist in analyzing current and projected conditions and in prioritizing the need for stand specific treatments. DNR should enlist the support of the following:

- (1) University of Washington to help develop and validate the methods, and also to provide links and support using their Landscape Management System as available software for use by local user groups;
- (2) USFS FIA for calibration of forest inventories to GIS stand attributes when using FIA data,
- (3) USFS Pacific Northwest Research Station's Focused Delivery Program that has funded pilot work in this area, and is willing to contribute their expertise, and
- (4) DNR, for providing existing GIS layers as well as web access to provide operational support for using the system both for DNR's strategic decision process and field support of communities that are determining how to respond to identified health problems.

DNR is seeking \$325,000 in 2007-2009 budget to fund a pilot project to address these questions. The pilot project will create a spatially explicit analysis of a forest health demonstration area at least 1 to 3 counties in size.

Data gathering, synthesis, and presentation to develop Density Thresholds for use with spatially distributed inventory data to identify the locations of highest forest health risks in Washington should occur.

Part of funding decision package stated above.

Encourage federal support for maintenance and updates to the Landscape Management System.

No action.

Changes must be made to RCW 76.04 and 76.06 to incorporate the 3-tiered forest health regulatory framework. The best solution is through changes to 76.06 and 76.04, rather than the noxious weed law.

Draft legislation was a key subject of the 2006 public meetings. The legislature will be given the final FHSWG recommendations and proposals in December 2006.

1. Meet continuing need for field personnel to maintain and expand public outreach and education.

The DNR should increase their capacity to coordinate and conduct statewide monitoring, develop and deliver training, and provide insect and disease reporting and technical assistance.

DNR obtained federal grants in 2005 and 2006 that temporarily supports 3 FTEs for technical assistance and cost-share grant program delivery in eastern Washington. An additional 2 FTEs are sought in State funding in the 2007 budget decision package. This is only a start.

DNR should seek advice on subjects and procedures for monitoring forest health conditions and program activities.

*Improvements are continually being made to annual aerial survey techniques and training. Great efficiencies were gained as Sudden Oak Death (*Phytophthora ramorum*) monitoring has shifted from a visual survey to a stream-baiting survey. More improvements are possible.*

In order to effectively address Forest Health restoration and maintenance activities, the DNR Stewardship program, WSU Forestry Extension, and campus based support from UW and WSU must expand their capacity.

A Natural Resource Extension agent has been added in the Spokane/Stevens County area (this position is funded cooperatively by WSU, a 3-year federal grant obtained by DNR, and counties). The central Washington Forestry Extension agent position has been filled. More capacity in the long term is still needed.

DNR should expand the distribution of annual Forest Health Conditions reports.

Website is currently main means of distributing report.

<http://www.dnr.wa.gov/htdocs/rp/forhealth/> links to 2004 and 2005 reports. No additional progress.

The legislature should provide encouragement to the USDA-NRCS state office to fund a forest health based emphasis.

No progress.

DNR should conduct a one-time public forest health educational campaign and evaluate the response to determine if there should be a continuing public education program.

DNR is seeking a communication specialist (1 FTE) and \$100,000 in ongoing annual funding to support forest health – wildfire education and communication in the 2007 budget decision package.

The production and dissemination of landowner educational and public outreach materials including both print and distant learning streaming media materials on forest health issues and restoration strategies should be expanded.

No progress. See above.

Sustainable forestry programs, such as Sustainable Forestry Initiative®, Forest Stewardship Council®, and the Washington Certified Tree Farm Program®, commit to adding standards to promote healthy forests on participants' lands and to recognize educational outreach programs conducted or participated in by program participants.

No progress.

2. Increase the capacity to develop and enforce forest health regulatory structure.

The DNR must develop the capacity to provide for forest health scientific advisory committees to assist the Commissioner in responding to extreme health problems that will occur from time to time.

Authorities are part of three-tier regulatory system option that FHSWG will transmit to the Legislature in December 2006. DNR will prepare a fiscal note on the basis of the bill that is actually introduced.

The DNR should develop Tier 3 policy and procedures including legally sound standards for forest condition, an implementable process for determining the condition of forest stands against which to apply the standards, and reasonable penalties.

Proposals were shared at public meetings in 2006. The legislature will be given options for legislation in December 2006.

When landowners/managers adopt plans to reduce forest health hazard, in accordance with a Commissioner's Forest Health Hazard Warning or Order, they must be provided with a notification documenting their response. In the event of a severe insect outbreak or fire, such notification can be expected to reduce the liability exposure for landowners who are effectively working to reduce the forest health risk. The DNR Forest Stewardship Program should conduct this activity.

Activity relates to three-tier regulatory system option that FHSWG will transmit to the Legislature in December 2006. DNR will prepare a fiscal note on the basis of the bill that is actually introduced.

Once the implementation of the forest health strategic plan has progressed to the point where Tier 3 may be implemented, the Legislature should authorize use of funds from the Landowner Contingency Fund to support state actions to address an extreme forest health hazard with the expectation that cost would eventually be recovered from the offending landowner.

This is part of implementing three-tier regulatory system option that FHSWG will transmit to the Legislature in December 2006. DNR will prepare a fiscal note on the basis of the bill that is actually introduced.

A series of management templates should be developed for easy identification of site sensitive situations and plans that are acceptable for providing private owners sustainable economic returns, low forest health risks, and environmental protections required under Forest & Fish.

After initial progress by the Small Forest Landowner Office on an Imminent Mortality Alternate Plan template, priorities shifted. No Imminent Mortality Alternate Plans have been approved.

Increase DNR capacity to pursue state cooperative actions with federal and Tribal land managers

The State of Washington should attempt to influence federal and tribal forest health management and implementation programs to be consistent with the state strategy. DNR should develop policy level capacity in the office of the State Forester to coordinate the state forest health strategy with federal and tribal land management agencies and to develop cooperative agreements with other landowners when appropriate.

Forest health policy specialist (1 FTE) is part of 2007 forest health budget decision package.

The State should explore opportunities to intervene in litigation on projects that support the statewide healthy forest strategy.

Forest health policy specialist (1 FTE) is part of 2007 forest health budget decision package.

Encourage continuation of and extension of federal support for technical assistance capacity and for increasing collaborative forest health improvement activities across all land ownerships.

Karen Ripley spoke at USDA Forest Service Region 6 program review on this topic in September 2006. Vicki Christiansen testified at a field hearing of the Subcommittee on Forests and Forest Health (US House of Representatives) in Omak in October 2006. Her testimony is available on the Internet: <http://www.dnr.wa.gov/htdocs/rp/forhealth/>. More action is needed.

Forest Practices Board

The Forest Practices Board should review the FPA rules to see if, when the riparian and wildlife protection strategies conflict with forest health goals, changes or modifications

can be made that achieve the goals of protecting public resources as well as meeting forest health and fire protection needs.

The current draft of FHSWG recommendations for legislation includes instruction to the Forest Practices Board to do this. That draft legislation will be transmitted to the Legislature in December 2006.

As these issues come before the Forest Practices Board through the adaptive management process, the Board should examine potential unintended forest health consequences. Solutions might include streamlining the acceptance of alternative plans, greater use of available collaborative planning processes, and eliminating some of the complex overlays in the rules.

A letter was sent to the Forest Practices Board in early 2005. A CMER inventory of eastside riparian forests has been initiated. Field work is likely to start in 2007.

The Forest Practices Board should give expeditious consideration to management templates, when developed.

No action yet.

The Forest Practice Board should look into ways to include salvage and treatments of insect pests as emergency applications to speed up the process and limit the appeals, while providing protection to public resources.

Action unknown.

Funding

The public sector, state and federal, should pay for the costs of the core forest health program.

2007 Forest health budget decision package seeks \$1,530,600 for 07-09 biennium.

The Legislature should fund high priority budget items for the 2005-2007 biennium.

Legislature funded conducting public meetings in 2006. Other items were not funded.

Restructure the forest excise tax tables to remove excise tax from wood products that have a stumpage value below a point where the net after tax return is below a minimum value. This minimum value should reflect a break even or nominal return on the cost of removing the material from the site.

No action.

DNR continue to seek federal grants that provide cost share to landowners. The Legislature should provide cost share funds for landowners also.

Additional federal grants are being applied for and successfully obtained, but available funds are decreasing. No action on obtaining state funds for this

purpose. Cost-share funds for landowners are not part of 2007 Forest Health Budget Decision package.

Recognizing that the greatest cost reductions and health gains will come from more effective prevention, the Legislature should create a panel to oversee the evaluation of non-market costs that can be avoided and benefits that can be gained by changing the motivation for management. The panel should to make recommendations and provide consulting support on how to best use this information in decisions to achieve these gains.

No action.

The Legislature should provide access to emergency funds to address exotic insect or disease invasion of state or private forestlands similar to emergency fire suppression funding.

No action, but no new exotic invasion has occurred.

Appendix 6

Forest Health Condition Update, November 2006

Karen Ripley, DNR Forest Health Program

When the Forest Health Strategy Work Group (FHSWG) was created in early 2004, the Legislature recognized that, “Washington faces serious forest health problems where forests are overcrowded or trees are infested with or susceptible to insects, diseases, wind, ice storms, and fire.” In December 2006 the FHSWG will provide its final report and recommendations to the legislature. Forest insect and disease conditions in Washington continue to worsen in many areas. This report highlights several areas of urgency: mountain pine beetle, western spruce budworm, and wildfire.

In the 2006 aerial survey, approximately 267,000 acres were detected as having newly bark-beetle-killed lodgepole, ponderosa, western white or whitebark pine. Not all the trees are killed on these acres; each year’s survey is a fresh tabulation of only the newest, previous year’s mortality within the forest. Yet, this reflects heavy losses since 2000, with over 4 million pine trees killed in eastern Washington in 2005 alone. Moreover, recent research at the University of Washington’s College of Forest Resources indicates that an increasing summer temperature trend may have increased pine susceptibility. High bark beetle populations present in many areas kill more trees per acre and make it more difficult for even vigorous trees to resist attack. High mortality levels are expected to continue.

The western spruce budworm is a native caterpillar that feeds on the foliage of Douglas-fir and grand fir. In 2006, the acres defoliated by this insect rose from 352,000 to approximately 556,000, a 58 percent increase. Much of the Douglas-fir forest type on the eastern side of the Cascade Mountains is affected. Defoliation is particularly noticeable along the Highway 12 and Highway 20 corridors. After multiple years of defoliation, “topkill” and tree death are common. Based on predictive insect trapping in 2006, the outbreak is expected to persist and intensify in parts of Yakima and Kittitas Counties and to expand eastward in Okanogan County. New defoliation will also likely be observed in Ferry County.

Wildfires heavily impacted Washington’s forests in 2006. Nine large wildfires occurred east of the Cascade Mountains. By late October, 961 wildfires had burned 51,208 acres on DNR-protected lands. Over 462,000 acres burned across all jurisdictions in Washington. Compared to the previous 5-year average, 2006 had about 16% more fires; the acreage burned was also much higher. Low precipitation, low humidity, frequent winds, lightning, and concentrations of insect-killed dead and dying trees created extremely dangerous conditions.

A 2006 Forest Health Highlights Report with information about a wide variety of forest insects and diseases is being prepared and will be displayed on the DNR's Forest Health Internet site <http://www.dnr.wa.gov/htdocs/rp/forhealth/> . Insect and disease defoliation and mortality maps are available for viewing at: <http://www.fs.fed.us/r6/nr/fid/as/quad06/index.shtml>.

Significant reductions in susceptibility to insect, disease, and fire risk can be achieved through active forest management to reduce crowding and leave the healthiest trees. Contact the DNR Forest Health staff (forest_health@wadnr.gov) for technical assistance regarding forest insects and diseases.